

# CHILDREN BY CHOICE

ASSOCIATION INCORPORATED

## *TERMINATION OF PREGNANCY BILL 2018*

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CHILDREN BY CHOICE SUBMISSION TO THE HEALTH, COMMUNITIES, DISABILITY SERVICES AND  
FAMILY VIOLENCE PREVENTION COMMITTEE

SEPTEMBER 2018

## INTRODUCTION

Children by Choice is pleased to make this submission to the Health, Communities, Disability Services, and Domestic and Family Violence Committee's inquiry into the *Termination of Pregnancy Bill 2018*.

Children by Choice provides counselling, information and education services on all options with an unplanned pregnancy, including abortion, adoption and parenting. We provide a Queensland-wide counselling, information and referral service to women experiencing unplanned pregnancy, offer financial assistance for contraceptive and abortion access, deliver sexual and reproductive health education sessions in schools and youth centres, and offer training for GPs and other health and community professionals on unplanned pregnancy options. As an organisation, we have almost 50 years' experience in unplanned pregnancy and reproductive choice. We have supported over 200,000 women and pregnant people during this time.

We also advocate for improvements to legislation and public policy that would improve women's access to reproductive health services and information. We are recognised nationally and internationally as a key advocacy group for the needs and rights of women in relation to reproductive and sexual health.

We are a pro-choice, all options, woman-centred service. We support and trust pregnant people to make the best decision they can with an unplanned pregnancy, for themselves and their families. Women and pregnant people are the experts in their own lives. Nobody else can know better than the pregnant woman herself what is best for her in her situation.

**This submission recommends that the Queensland parliament pass the *Termination of Pregnancy Bill 2018*.**

It is our position that Sections 224-226 of the *Criminal Code 1899* are no longer in line with contemporary clinical practice and community expectation. In addition, we believe that criminalising a procedure which largely only women need (and which it is estimated that one in three Queensland women will have during their lifetime) is discriminatory and places undue burden on some of our most vulnerable women.

Our submission will consider the legislation and offer both reliable, peer-reviewed research and real examples that support the inclusion of each major component within the Bill.

## RECOMMENDATIONS

That the Committee recommends the *Termination of Pregnancy Bill 2018* be passed by the Queensland Parliament without amendments to the gestational limit or doctors consulting after 22 weeks, recognising the impact any amendment would have in disproportionately affecting regional and remote Queenslanders or people of extreme vulnerability and disadvantage.

That the Committee amend Clauses 15 and 16 of the Bill in order to expressly prohibit specific behaviours and actions, consistent with safe access zone clauses in New South Wales and Victoria.

That the Committee give weight to well-supported submissions by expert practitioners and groups and to the availability of reliable, peer-reviewed research into abortion to inform their position on legislative reform.

## ABOUT OUR WORK

Children by Choice was founded in 1972 to advocate for legal abortion, and to assist pregnant women with information about their pregnancy options.

Since that time we have supported thousands of pregnant people with decision making counselling, accurate evidence based information about abortion, adoption and parenting, referrals to health and support services, and/or financial support to access abortion or contraception.

We are the only independent, stand-alone pro-choice pregnancy counselling service in Queensland.

We are funded by the Queensland Department of Child Safety, Youth and Women to deliver counselling and community education. Other activities, including policy advocacy and our financial support program, are delivered with the help of grant funding, donations from supporters, and volunteer hours.

### Counselling

We support around 1500 individual clients each year through our counselling work. In recent years, our number of contacts (phone calls, emails, face-to-face sessions) have risen but the number of clients has remained relatively stable, demonstrating that our clients are requiring more assistance to resolve their more complex issues.

The majority of the work of our counselling team is supporting pregnant people to access safe and timely abortion care. According to our most recent Annual Report, the most commonly requested information in 2016-17 was about abortion procedures and availability (49.5%), contraception (19%), loans for abortions and/or contraceptive access (18%), and abortion provider details (15.7%).<sup>1</sup> This mirrors the traffic to our website, where the five most highly viewed pages discuss abortion law and access related. These pages account for almost half of all our website traffic.

Accurate information on abortion legality and availability can be difficult to access for women,

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<sup>1</sup> Children by Choice. "Annual Report 2016-17", p. 6. Online at: [https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617\\_final.pdf](https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617_final.pdf)

pregnant people and their families; this results in part from the stigma still attached to abortion, which continued criminality helps perpetuate. Around 30% of our contacts report that finding accurate information on abortion is a key issue for them, so it should be no surprise that a disproportionate number of our contacts focus on this need.

Key statistics from our 2016-17 Annual Report include:

- 34.5% of the work of our counselling team was with or on behalf of women reporting violence<sup>2</sup>;
- Almost \$130,000 was provided through our financial support program to help women access abortion and/or long acting reversible contraceptives – an increase of \$40,000 since 2015-2016<sup>3</sup>;
- We had 185 conversations with 50 women who had attempted or were planning to attempt to induce their own miscarriage because they could not access a safe procedure – three quarters of these contacts had experienced domestic and/or sexual violence;
- 57% of our contacts were Health Care Card holders;
- 64% of our contacts said the cost of abortion was a barrier to access, while 20% said their location was a barrier to abortion access.

We have recently compiled data from 2017-2018, and will soon publish our Annual Report for this financial year. Key findings from this data include:

- We talked to over 1693 clients, with 28.3% of first contact with clients being a request for counselling;
- We provided \$228,052 through our financial support program to help women access abortion and/or long acting reversible contraceptives – an increase of \$100,000 from the preceding year;
- Of the 12% of pregnant people that came to us with a gestation of 16 weeks or higher:
  - 49% reported domestic violence
  - 13% reported sexual assault
  - 2.7% reported a fetal abnormality
- The average distance travelled by our clients for a termination of pregnancy was 105km, with the greatest distance travelled being 2,064km;

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<sup>2</sup> Children by Choice. "Annual Report 2016-17", p. 10. Online at: [https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617\\_final.pdf](https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617_final.pdf)

<sup>3</sup> Children by Choice. "Annual Report 2016-17", p. 8. Online at: [https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617\\_final.pdf](https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617_final.pdf)

- We had 130 conversations with 18 women who had attempted or were planning to attempt to induce their own miscarriage because they could not access a safe procedure
- 15% of our clients reported reproductive coercion, with 74% reporting being coerced into a pregnancy by a partner, and 26% reporting being coerced into an abortion.

## Community Education

As part of our community education programs, we deliver sexuality and relationships education to young people through schools and youth centres, and professional development training for the health and community sectors.

Most of our work with young people is centred around those disengaged from mainstream education and is delivered through alternative education programs, community organisations, and behavioural support groups. 300 young people took part in these programs in 2016-7<sup>4</sup>.

As part of our response to growing rates of reported violence amongst our clients, August 2016 saw the commencement of our domestic violence project, Screening to Safety. The project was made possible by a charitable grant and came to a close in June 2018. One of the chief aims of the project was to build the capacity of abortion providers in Queensland to identify and respond to domestic violence with a particular focus on reproductive coercion. The project undertook:

- The development of a domestic and sexual violence screening tool for Queensland abortion providers.
- Supporting abortion providers to establish environments that support disclosure.
- Enlisting knowledge of indicators of violence in women attending for abortion care into abortion provision setting.
- Supporting abortion providers to respond to disclosures of violence and reproductive coercion through knowledge of referral pathways.
- Supporting abortion providers to respond to disclosures of violence and reproductive coercion through contraceptive information and access.
- Training and education for abortion providers and other health care practitioners to increase knowledge and skills .

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<sup>4</sup> Children by Choice. "Annual Report 2016-17", p. 7. Online at: [https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617\\_final.pdf](https://www.childrenbychoice.org.au/images/downloads/AnnualReport1617_final.pdf)

- Training for the women's sector to increase knowledge and skills.
- Awareness raising in the women's sector.
- Training and education initiatives for the youth sector and young people.

You can find more information on the Screening to Safety project on the Children by Choice website.<sup>5</sup>

Our professional development work encompasses a variety of platforms and audiences. In 2016-17 over 1800 healthcare professionals took part in training events we ran or presented at. Training is focussed on capacity building with health and community sector professionals working with women and pregnant people around unplanned pregnancy, including school based youth health nurses, GPs, social workers, and public hospital health and allied health professionals. Our most recent conference was held in 2017 in Brisbane and attracted over 200 professionals and students from across Australia, with over 70% of attendees rating it as 'excellent'.<sup>6</sup>

In 2013 we were invited to assist with the development of the Queensland Health Maternity and Neonatal Clinical Guideline for Therapeutic Termination of Pregnancy. This is the first Statewide Guideline issued on the provision of termination of pregnancy in Queensland hospitals. In 2015-16 we were contracted by Queensland Health to lead the development of consumer information on the Guideline, in consultation with other key stakeholders. We have also delivered training both in-person and via videoconference for professionals working in public hospitals on the implementation of the Guideline.

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<sup>5</sup> Children by Choice. "Screening to Safety". Online at:  
<https://www.childrenbychoice.org.au/forprofessionals/recognisingviolenceandcoercion/screening-to-safety>

<sup>6</sup> Children by Choice. "Unplanned Pregnancy and Abortion in Australia Conference report". Online at:  
<https://www.childrenbychoice.org.au/images/finalconferencereport.pdf>

## Lawful terminations

### Not more than 22 weeks pregnant

*Clause 5 of the Bill allows that a medical practitioner may perform a termination on a woman who is not more than 22 weeks pregnant. Clause 10 of the Bill provides that a woman who consents to, assists in, or performs a termination on herself does not commit an offence. Clause 22 of the Bill repeals Sections 224 to 226 of the Criminal Code which make it an offence to terminate a pregnancy.*

*Do you agree that terminations should be lawful on request up to 22 weeks?*

Children by Choice supports the removal of abortion from the *Criminal Code* under sections 224, 225, and 226, and the further amendments per clauses 22 - 25 of the Bill. Children by Choice supports the introduction of staged gestational limits as under the *Termination of Pregnancy Bill 2018*.

Excepting Queensland and New South Wales, every other Australian state or territory has decriminalised, in part or as a whole, termination of pregnancy. Sections 224 to 226 of the *Criminal Code* have not once been amended since their inception 119 years ago.

Queensland is one of the last jurisdictions to retain such a charge, and every other Australian jurisdiction that has dealt with abortion law reform since the 1970s has removed abortion from their Crimes Acts or Codes.<sup>7</sup> It is the only health procedure in the Criminal Code, a health procedure that is accessed by approximately 14,000 people in Queensland each year.<sup>8</sup>

In Children by Choice's submission to the Queensland Law Reform Commission's (QLRC) review into abortions laws in Queensland, we noted our position that we do not believe a legislated gestational limit for lawful termination of pregnancy is necessary, a view that aligns with that of the Royal Australian and New Zealand College of Obstetrics and Gynaecologists (RANZCOG) and other peak medical and legal groups.<sup>9</sup> However, we recognise that significant community concern exists in

<sup>7</sup> Overview of termination of pregnancy law by jurisdiction on the Children by Choice website at <https://www.childrenbychoice.org.au/factsandfigures/australianabortionlawandpractice>.

<sup>8</sup> Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee. "Public Briefing - Inquiry into the Termination of Pregnancy Bill 2018", 2018, p. 9. Online at: <https://www.parliament.qld.gov.au/documents/committees/HCDSDVPC/2018/TerminationOfPregnancyB18/trns-pb-24Aug2018.pdf><https://www.parliament.qld.gov.au/documents/committees/HCDSDVPC/2018/TerminationOfPregnancyB18/trns-pb-24Aug2018.pdf>

<sup>9</sup> Submission 845 – Inquiry into the Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016 and



regards to later gestation termination and as such, we support the introduction of a staged approach.

Children by Choice would recommend that the gestational limits per Clauses 5 and 6 of the Bill are not amended to a lower gestation. Only 0.5-1% of terminations of pregnancy are performed after 20 weeks gestation and are often for complex reasons including a diagnosis of a fatal fetal abnormality, domestic violence and reproductive coercion, or a threat to the pregnant person's life.<sup>10</sup> As per Deputy Director General Dr John Wakefield, only 76 terminations were carried out post-22 week gestation in Queensland in 2016, or 0.5% of terminations that year.<sup>11</sup>

Ultrasound screening for fetal health is routinely recommended at 18-21 weeks gestation, and the vast majority of fetal anomalies are not diagnosed until this time.<sup>12</sup> Implicit in this practice is that if those tests return an unexpected or negative diagnosis, women and pregnant people will be supported to make a decision regarding the pregnancy given the knowledge that testing has afforded to them.

Children by Choice data from the 2016-17 financial year shows that of the 12% of clients presenting with pregnancies of 16 weeks gestation or higher, over 60% reported domestic violence, as compared to 34.5% of all clients.<sup>13</sup> In South Australia, where the most reliable termination data in Australia is collated, over half of the terminations provided after 20 weeks gestation are due to negative fetal diagnoses.<sup>14</sup>

Legislating for a 22 week gestational limit will mean that pregnant people will be afforded more time

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Inquiry into laws governing termination of pregnancy in Queensland. 2016: 2. Online at <https://www.parliament.qld.gov.au/documents/committees/HCDSDVPC/2016/AbortionLR-WRC-AB2016/submissions/845.pdf>.

<sup>10</sup> N Grayson, J Hargreaves & EA Sullivan 2005. Use of collected national data sets for reporting on induced abortion in Australia. AIHW Cat. NO. PER 30. Sydney: AIHW National Perinatal Statistics Unit (Perinatal Statistics Series No. 17). Online at <http://www.aihw.org.au/Work/Area/DownloadAsset.aspx?id=6442458945>.

<sup>11</sup> Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee. "Public Briefing - Inquiry into the Termination of Pregnancy Bill 2018", p. 9. Online at: <http://www.parliament.qld.gov.au/documents/committees/HCDSDVPC/2018/TerminationofPregnancyB18/trns-pb-24Aug2018.pdf>

<sup>12</sup> Department of Health. "18-22 Week Detailed Morphology Scan". 2007. Online at: <http://www.health.gov.au/internet/publications/publishing.nsf/Content/di-obs-guidelines0907-toc~di-obs-guidelines0907-s3~di-obs-guidelines0907-s3.4>

<sup>13</sup> Children by Choice. "Annual Report 2016-17", p. 10. Online at <https://www.childrenbychoice.org.au/aboutus/annualreports>

<sup>14</sup> Scheil W, Jolly K, Scott J, Catcheside B, Sage L, Kennare R. "Pregnancy Outcomes in South Australia 2015". Adelaide: Pregnancy Outcome Unit, SA Health, Government of South Australia, 2017: 55. Online at <http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/about+us/health+statistics/pr+egnancy+outcome+statistics>.

to make a decision regarding continuing on with a pregnancy without the barrier that they'll then have to seek the approval of two medical professionals. These are genuinely stressful and painful weeks for any pregnant person, and they shouldn't be burdened with the knowledge that they then have to wait for medical professionals to make a decision that should be theirs to make.

### More than 22 weeks pregnant and with the agreement of two medical practitioners

*Clause 6(1) of the Bill allows that a medical practitioner may perform a termination on a woman who is more than 22 weeks pregnant if the medical practitioner considers that the termination should be performed, and has consulted with another medical practitioner who also agrees that the termination should be performed. Clause 6(2) of the Bill outlines the matters which a medical practitioner must consider when considering whether a termination should be performed - these being all relevant medical circumstances, the woman's current and future physical, psychological and social circumstances, and the professional standards and guidelines that apply to the medical practitioner in relation to the performance of the termination.*

*Do you agree that terminations should be lawful beyond 22 weeks with the agreement of two medical practitioners?*

Children by Choice support Clause 6(1) and 6(2) of the *Termination of Pregnancy Bill 2018* in their current form. As stated in previous submissions to this Committee and to the QLRC, while we do not believe that a staged approach to decriminalisation is needed, we recognise that community opinion on the issue necessitates such an approach.<sup>1516</sup>

Children by Choice recommends Clause 6(1b) remains as it is in the Bill without amendment. We believe that any change, such as requiring that a second medical practitioner must consult with or examine the patient in question would create significant barriers, especially for those living in remote or regional Queensland.<sup>17</sup>

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<sup>15</sup> Children by Choice. Submission to the QLRC. 2018. Online at:

[https://www.childrenbychoice.org.au/images/downloads/QLRC\\_ChildrenbyChoiceSubmission\\_Jan2018.pdf](https://www.childrenbychoice.org.au/images/downloads/QLRC_ChildrenbyChoiceSubmission_Jan2018.pdf)

<sup>16</sup> Children by Choice. Submission to the Health, Communities, Disability Services and Family and Domestic Violence Prevention Committee. 2016. Online at:

<https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/18-HealthAbortion/submissions/565.pdf>

<sup>17</sup> Queensland Law Reform Commission. "Review of termination of pregnancy laws". Online at:

At a time of severe stress, no woman in Queensland should be forced to undergo repeat examinations or consultations, either face-to-face or by teleconference, with multiple medical professionals. The decision of one medical professional to provide a termination, in consultation with one of their medical professional colleagues, adequately ensures that the relevant considerations under Clause 6(2) have been adequately and appropriately assessed.

Professional standards and guidelines as well as current practice will ensure specialist involvement where it is clinically indicated and appropriate, as indicated in multiple submissions to the Queensland parliamentary inquiries in 2016, including the Australian Clinical Psychology Association and practising maternal fetal medicine specialists from several leading Queensland hospitals.

We strongly support RANZCOG's assertion that '[n]o specific clinical circumstance should qualify or not qualify a woman for termination' as the 'impact of any particular condition is highly individual and often complex'.<sup>18</sup>

### More than 22 weeks pregnant and in an emergency

*Clause 6(3) of the Bill allows that a medical practitioner may, in an emergency, perform a termination on a woman who is more than 22 weeks pregnant if the medical practitioner considers it necessary to perform the termination to save the woman's life or the life of another unborn child.*

*Do you agree that terminations beyond 22 weeks should be allowed in an emergency?*

Children by Choice supports Clause 6(3) of the Bill in its current form.

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[https://www qlrc.qld.gov.au/\\_\\_data/assets/pdf\\_file/0004/576166/qlrc-report-76-2018-final.pdf](https://www qlrc.qld.gov.au/__data/assets/pdf_file/0004/576166/qlrc-report-76-2018-final.pdf)

<sup>18</sup> Royal Australian and New Zealand College of Obstetricians and Gynaecologists, 'Termination of Pregnancy' (C-Gyn 17, July 2016), cited in *Review into termination of pregnancy laws: Consultation Paper* Queensland Law Reform Commission. December 2017; WP No 76; 48. Online at [http://www qlrc.qld.gov.au/\\_\\_data/assets/pdf\\_file/0010/547165/qlrc-wp-no-76-2017.pdf](http://www qlrc.qld.gov.au/__data/assets/pdf_file/0010/547165/qlrc-wp-no-76-2017.pdf)

## Conscientious objection

*Clause 8 of the Bill allows for a health practitioner to conscientiously object to the performance of a termination. The health practitioner is required to disclose their conscientious objection and refer or transfer the woman to another health practitioner or health service provider. The clause does not limit any duty owed by a registered health practitioner to provide a service in an emergency.*

*Do you agree with allowing a health practitioner to conscientiously object to the performance of a termination, except in emergencies?*

Yes. Individual clinical practitioners should be lawfully able to conscientiously object to involvement in terminations of pregnancy. This provision should not be applicable to administrative staff, services, facilities, organisations, or corporate entities.

Conscientious objection should not apply in an emergency. One person's life should always take precedence over another's personal values or beliefs, no matter how firmly held. In all other situations, health services should ensure that their patients' access to lawful procedures is not limited or removed due to conscientious objection. It is the position of Children by Choice that these matters are best dealt with by using policies and clinical guidelines. Administrative staff and facilities, however, should be exempt from being lawfully able to conscientiously object, in order to minimise barriers to access for women and pregnant people, especially those living in remote parts of the state.

The *Termination of Pregnancy Bill 2018* has been informed by existing medical professional Codes of Conduct.<sup>19</sup> Clause 8 draws on existing obligations that medical practitioners are already currently required to adhere to, such as the Codes of Conduct of the Australian Medical Association,<sup>20</sup> the Nursing and Midwifery Board of Australia,<sup>21</sup> and the Pharmacy Board of Australia.<sup>22</sup> The Bill does not require a conscientious objector to participate in a termination unless in an emergency situation, with participation defined as 'direct' participation in treatment – as per established precedent in the UK

<sup>19</sup> Queensland Law Reform Commission, 'Conscientious Objection' in *Review of termination of pregnancy laws* (2018), p. 117. Online at: [https://www.qlrc.qld.gov.au/\\_\\_data/assets/pdf\\_file/0004/576166/qlrc-report-76-2018-final.pdf](https://www qlrc.qld.gov.au/__data/assets/pdf_file/0004/576166/qlrc-report-76-2018-final.pdf)

<sup>20</sup> AMA, *Position Statement: Conscientious Objection*. 2013.

<sup>21</sup> Nursing and Midwifery Board of Australia, *Code of Conduct for Nurses*. 2018.

<sup>22</sup> Pharmacy Board of Australia, *Code of Conduct*. 2014.

and other jurisdictions.<sup>2324</sup>

## Safe access zones

*Clauses 11 to 14 of the Bill allow for the establishment of safe access zones at termination service premises. The safe zone applies to an area within 150 metres of the entrance of the termination service premises, unless a distance is prescribed by regulation. It also establishes penalties for prohibited conduct or restricted recording (including the publication and distribution of a restricted recording) within a safe access zone.*

*Do you agree with the establishment of safe access zones within 150m of the entrance of termination service premises and associated penalties for prohibited conduct or restricted recording?*

Children by Choice supports the establishment of safe access zones and Clauses 11 to 14 in the Bill. We are strongly supportive of the principle of safe access zones and agree with the statement by Victorian Health Minister Jill Hennessy that they are necessary “in order to prevent the harm and not just to respond to inappropriate conduct when it occurs.”

Human rights law experts support the introduction of safe access zones around abortion provider premises, and state that enacting this legislation does not impose a burden on the implied right to freedom of political communication.<sup>25</sup>

We work closely with clinics that provide surgical terminations of pregnancy across the state, and every single premises has had protesters outside their clinics at some stage. Over the past 8 months, Children by Choice has been increasingly concerned by the reports from clinics of the increase in the presence of opponents to abortion at clinics across Brisbane. Children by Choice have been told that these opponents have engaged in behaviours towards patients and clinic staff that is harassing and intimidating, and has resulted in the involvement of Police on a number of occasions.

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<sup>23</sup> *Janaway v Salford Health Authority* [1988] 3 All ER 1079, *Greater Glasgow Health Board v Doogan* [2015] 2 All ER 1, [34] [38].

<sup>24</sup> Queensland Law Reform Commission, ‘Conscientious Objection’ in *Review of termination of pregnancy laws* (2018), p. 119. Online at: [https://www.qlrc.qld.gov.au/\\_\\_data/assets/pdf\\_file/0004/576166/qlrc-report-76-2018-final.pdf](https://www qlrc.qld.gov.au/__data/assets/pdf_file/0004/576166/qlrc-report-76-2018-final.pdf)

<sup>25</sup> See for example ‘Safe Access Zones’ presentation by Dr Ronli Sifris, Deputy Director of Castan Centre for Human Rights, at the second national Unplanned Pregnancy and Abortion in Australia Conference, August 2017, online at <https://www.childrenbychoice.org.au/images/downloads/2017conference/Ronli-Sifris-Safe-access-zones.pdf>; also the Human Rights Law Centre submission to the Health (Abortion Law Reform) Amendment Bill 2016 at <https://www.parliament.qld.gov.au/documents/committees/HCDSDVPC/2016/18-HealthAbortion/submissions/894.pdf>.

The behaviour by these anti-abortion groups is vicious, unwanted and should be criminal. The conduct of anti-abortion protesters outside clinics affect both the patients, their support persons, and the clinic staff. The Children by Choice Counselling Team have anecdotally observed an increase in the number of clients mentioning protesters outside of the clinics and the distress this has caused. In 2016, a Queensland woman shared her story of encountering these anti-abortion groups outside a Brisbane clinic when accessing a termination following a sexual assault during a home invasion:

My husband took me to the clinic that day and acted as a human shield from the protestors who were outside the clinic yelling things like ‘baby killer’ and facts about the pain level of an embryo. It was humiliating. I wanted to yell at them and scream ‘You don’t know why I’m here.’ ‘You have no idea. I wish I could be anywhere else.’<sup>26</sup>

The behaviour of anti-abortion groups outside clinics clearly interferes with the privacy and dignity of individuals accessing terminations.

Children by Choice has concerns regarding the enforceability Clause 15 and 16 of the Bill as the language of Clause 15 in particular is quite vague, and lacks any specific examples.<sup>27</sup>

Children by Choice would recommend the adoption of safe access zone laws which prohibit specific conduct. Such prohibitions have been adopted in Section 185B of the *Public Health and Wellbeing Act 2008* (Vic)<sup>28</sup> and Sections 98C and 98D of the *Public Health Act 2010* (NSW)<sup>29</sup>. In particular, Section 98C of the New South Wales legislation lays out a number of unacceptable actions, including: harassment, intimidation, besetting, threatening, hindering, obstructing or impeding access of a footpath or road leading to a clinic.<sup>30</sup>

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<sup>26</sup> “My Abortion Story”. Online at: <https://youngqldfortherighttochoose.weebly.com/myabortionstory/my-abortion-story5575096>

<sup>27</sup> Queensland Parliament. *Termination of Pregnancy Bill 2018*. Clause 15(1C), page 11. Online at: <http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2018/5618T1160.pdf>

<sup>28</sup> Victorian Parliament. *Public Health and Wellbeing Act 2008* (VIC). Online at: [http://www.legislation.vic.gov.au/Domino/Web\\_Notes/LDMS/LTObject\\_Store/LTObjSt7.nsf/DDE300B846EED9C7CA257616000A3571/D331299FC9320155CA257B0B0080F707/\\$FILE/08-46aa015%20authorised.pdf](http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/LTObject_Store/LTObjSt7.nsf/DDE300B846EED9C7CA257616000A3571/D331299FC9320155CA257B0B0080F707/$FILE/08-46aa015%20authorised.pdf)

<sup>29</sup> NSW Parliament. *Public Health Act 2010* (NSW). Online at: <https://www.legislation.nsw.gov.au/#/view/act/2010/127/>

<sup>30</sup> NSW Parliament. *Public Health Act 2010* (NSW). Online at: <https://www.legislation.nsw.gov.au/#/view/act/2010/127/part6a/sec98c>

## Offences for unqualified persons

*Clause 25 of the Bill outlines offences for an unqualified person who performs, or assists in performing, a termination on a woman. Both offences have a maximum penalty of 7 years imprisonment.*

*Do you agree with the proposed offences for unqualified persons who perform or assists with a termination?*

Children by Choice supports the inclusion of Clause 25 of the Bill in its current form.

## Other issues

### Specific grounds to refuse a lawful termination of pregnancy

There should be no specific grounds to refuse a lawful termination of pregnancy. Clause 8 of *The Termination of Pregnancy Bill 2018* allows for registered health practitioners to have a conscientious objection to performing, assisting or advising on terminations. Any refusal outside of a conscientious objection from a health practitioner is grossly unfair to the person seeking healthcare and should not be allowed. This Bill seeks to remove discrimination and inequality that pregnant people currently face accessing abortion care in Queensland and any amendment to include any grounds to refuse is not in line with the purpose of the *Termination of Pregnancy Bill 2018*.

Children by Choice is aware of a push to introduce amendments to the current Bill that stipulate a pregnant person may not access a termination if they are seeking to end a pregnancy on the grounds of the sex of the fetus. Without any data to back up the occurrence of such practices, multiple anti-abortion groups both in and outside of Queensland are lobbying members of parliament to vote against the *Termination of Pregnancy Bill 2018* on the grounds that it will increase the number of terminations performed each year due to sex selection.

There is no evidence to suggest that sex selective terminations of pregnancy are occurring in Australia.<sup>31</sup> Additionally, terminations on the basis of the sex of the fetus may be undertaken for a number of reasons unrelated to cultural preferences, chief among these reasons being the potentially risk of transmitting a serious genetic illness or disease.<sup>32</sup>

According to a number of unplanned pregnancy counselling services in Australia, conversations about sex selective terminations are increasingly rare.<sup>33</sup> Children by Choice interacted with over 1,600 clients in the financial year of 2017-2018. According to our data, only one client mentioned the sex of the pregnancy in relation to the pregnancy decision making. The woman presented to the service at less than 9 weeks gestation.

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<sup>31</sup> Rushton, Gina and Cordell, Marni, 2018. "Reporting the facts on abortion", *O&G Magazine* Vol. 20:2. Online at:

<sup>32</sup> World Health Organisation. "Gender and Genetics". Online at [https://www.ogmagazine.org.au/20/2-20/reporting-the-facts-on-](https://www.ogmagazine.org.au/20/2-20/reporting-the-facts-on-abortion/http://www.who.int/genomics/gender/en/index4.html#Genetic%20technologies%20for%20sex%20selection)

<http://www.who.int/genomics/gender/en/index4.html#Genetic%20technologies%20for%20sex%20selection>

<sup>33</sup> Rushton, Gina, 2018. "We Need To Talk About This New Argument For Keeping Abortion A Crime". *Buzzfeed News*. Online at: [https://www.buzzfeed.com/ginarushton/sex-selective-abortion-queensland-decriminalisation-debate?utm\\_term=.nb9nY24gw#.qjywA4IMW](https://www.buzzfeed.com/ginarushton/sex-selective-abortion-queensland-decriminalisation-debate?utm_term=.nb9nY24gw#.qjywA4IMW)



## Mandatory counselling

As a provider of the only all options pro-choice counselling service in Queensland, Children by Choice would not be supportive of any amendment to the *Termination of Pregnancy Bill 2018* to include mandatory counselling before or after a termination of pregnancy. Professional counselling should always be freely available for those who choose to access it, but should not be mandatory.

We support the availability of genuine, professionally provided, unbiased all options pregnancy counselling for anyone who wishes to access it.

We have concerns about legislating the requirement to offer counselling due to the lack of clarity of what this requirement would entail (for example, what sort of counselling and by whom), the lack of legislative requirements for transparency in pregnancy counselling, and the lack of necessity for the offer of counselling to be a legislative provision.

Pregnancy counselling services in Australia are not legally required to disclose if they are run on an anti-abortion basis, and are not subject to the trade practices legislation that regulates misinformation and false advertising.<sup>34</sup> This allows services to provide inaccurate and sometimes intentionally misleading information on abortion and its availability to women experiencing an unplanned or unwanted pregnancy, and can make it extraordinarily difficult for women and pregnant people to know that they are accessing a genuine all options service, or for medical professionals to be confident that is what they are referring patients to, particularly when the names of such services provide no hint of their position.<sup>35</sup>

Informed consent counselling seeks to ensure that the patient understands the nature and the purpose of a medical procedure, its alternatives, the possible complications, and the likelihood of these complications occurring. It also ascertains that that the patient is making the decision to

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<sup>34</sup> *Transparent advertising and notification of pregnancy counselling services Bill 2005: overview of the Inquiry* by the Senate Community Affairs Legislation Committee is available on the federal parliament website at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Completed\\_inquiries/2004-07/pregnancy\\_counselling/report/c01](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2004-07/pregnancy_counselling/report/c01).

<sup>35</sup> For example, Pregnancy Counselling Link is a service funded by the Queensland Government which offers 'counselling by qualified professionals' and support with 'difficult decisions' and 'unplanned pregnancy' according to their website (<http://www.pcl.org.au/>). Their 'abortion information brochure' contains in small print at the bottom of the second page that 'Pregnancy Counselling Link does not provide referrals for abortion.' The brochure must be downloaded from their website as a pdf (<http://www.pcl.org.au/assets/PCL-AbortionBrochure.pdf>) and is not otherwise accessible. The information about refusal to refer is not stated in any other place on their website.

proceed with the treatment voluntarily. As with other medical procedures (arguably more so under our current legislative framework), informed consent counselling is a standard part of public and private termination of pregnancy services in Queensland, and is additionally addressed in the Queensland Maternity and Neonatal Clinical Guideline on the Therapeutic Termination of Pregnancy,<sup>36</sup> the Clinical Services Capability Framework (CSCF) for Licensed Private Health Facilities and the relevant companion modules for terminations of pregnancy and day surgeries,<sup>37</sup> and the licensing and distribution conditions for medical abortion determined by the Therapeutic Goods Administration.<sup>38</sup>

### Termination rates in Queensland

There is no data to back the claim that abortions – for any reason – will increase if decriminalisation occurs. In fact, the data suggests the opposite is true. According to data publicly available through Medicare, there were no spikes in the rate of abortions carried out in the states of Victoria and Tasmania once decriminalisation of abortion had occurred.<sup>39</sup>

Additionally, studies of the worldwide incidence of termination have found that , ‘unrestrictive abortion laws do not predict a high incidence of abortion, and the same token, highly restrictive abortion laws are not associated with low abortion incidence’.<sup>40</sup>

### The definition of ‘woman’ in the Bill

Currently, the *Termination of Pregnancy Bill 2018* defines ‘woman’ as ‘a female person of any age’. In Queensland, you can only apply to note your sex change if you have had sexual reassignment surgery,

<sup>36</sup> *Queensland Maternity and Neonatal Clinical Guideline: Therapeutic Termination of Pregnancy*. Queensland Health, 2013. Available on the Queensland Health website at <https://www.health.qld.gov.au/qcg/documents/g-ttop.pdf>.

<sup>37</sup> ‘About the CSCF’, available on the Queensland Health website at <https://www.health.qld.gov.au/clinicalpractice/guidelines-procedures/service-delivery/cscf/about/default.asp>.

<sup>38</sup> Australian Register of Therapeutic Goods ID 210574 (MS-2 Step composition pack) product information available online at the Therapeutic Goods Administration website:

[https://www.ebs.tga.gov.au/servlet/xmlmillr6?dbid=ebs/PublicHTML/pdfStore.nsf&docid=77FFC395C0EC491DCA257E5F004236DF&agid=\(PrintDetailsPublic\)&actionid=1](https://www.ebs.tga.gov.au/servlet/xmlmillr6?dbid=ebs/PublicHTML/pdfStore.nsf&docid=77FFC395C0EC491DCA257E5F004236DF&agid=(PrintDetailsPublic)&actionid=1).

<sup>39</sup> Australian Department of Human Services. Medicare items 35643 processed from July 2006 to June 2017’, *Medicare*. July 25 2018. Online at:

[http://medicarestatistics.humanservices.gov.au/statistics/do.jsp?\\_PROGRAM=%2Fstatistics%2Fmbs\\_](http://medicarestatistics.humanservices.gov.au/statistics/do.jsp?_PROGRAM=%2Fstatistics%2Fmbs_)

<sup>40</sup> Queensland Law Reform Commission, *Review of termination of pregnancy laws* (2018), p. 133. Online at: [https://www qlrc.qld.gov.au/\\_\\_\\_data/assets/pdf\\_file/0004/576166/qlrc-report-76-2018-final.pdf](https://www qlrc.qld.gov.au/___data/assets/pdf_file/0004/576166/qlrc-report-76-2018-final.pdf)

meaning that most people with the ability to become pregnant would be protected under this Bill.<sup>41</sup> However, many Queenslanders with the ability to become pregnant may not identify as a woman or female, presenting a clear issue with the legislation as it currently stands.

In the interests of LGBTIQ+ inclusivity, Children by Choice recommends that the Committee considers replacing all mentions of 'woman' with 'pregnant person'.

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<sup>41</sup> Queensland Government. "Note a change of sex in a birth or adoption register". Online at <https://www.qld.gov.au/law/births-deaths-marriages-and-divorces/birth-registration-and-adoption-records/note-a-change-of-sex-in-a-birth-or-adoption-register>

## Publication of submission

*If the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee accepts a submission, it becomes part of the committee's records and is usually published on the committee's webpage as soon as possible to encourage public consideration. However, a committee may decide that a submission, or part of it, should be kept confidential.*

*Contact details of individuals (e.g. residential or email addresses or phone numbers) are removed before submissions are published.*

*Are you content for your submission to be published?*

Yes. Children by Choice are happy for our submission to be published.

## Appearing as a witness at a public hearing

*If the Health, Communities, as part of its inquiry, the committee will hold public hearings to build on the information provided in written submissions. These hearings provide the opportunity to those witnesses, who are invited by the committee to appear, to explain further, or add to, information included in their submissions. Hearings enable committee members to question submitters on the issues raised in their submissions. They also give submitters an opportunity to respond to issues or arguments put forward in other written or oral submissions.*

*Further information can be found in the guide *Appearing as a Witness*, available [here](#).*

*Would you like to be considered to appear as a witness before the committee?*

Yes. Children by Choice would welcome the opportunity to appear as a witness before the Committee.