

## Young Queenslanders for the Right to Choose

Committee Secretary  
Health, Communities, Disability Services and  
Domestic and Family Violence Prevention Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By email: [health@parliament.qld.gov.au](mailto:health@parliament.qld.gov.au)

4 September 2018

Dear Committee Secretary

**RE: *Termination of Pregnancy Bill 2018***

Young Queenslanders for the Right to Choose (**'Young Queenslanders'**) is a pro-choice community group which advocates for the decriminalisation of abortion in Queensland. We represent the views of our members (predominately young people aged 17 – 25) who believe in the right to access safe and legal termination of pregnancy services.

We strongly support the *Termination of Pregnancy Bill 2018* (**'the Bill'**) in its current form and the recommendations of the Report by the Queensland Law Reform Commission (**'QLRC'**) on the Review of termination of pregnancy laws (**'QLRC Report'**).

Please feel free to contact either Kate Marchesi [REDACTED] or Olivia King [REDACTED] should you have any queries regarding this submission. We are happy to appear at the Brisbane public hearing.

Kind regards



Kate Marchesi

**President/Co-Founder**



Olivia King

**Vice President/Co-Founder**

## 1. Conscientious objection

The Bill makes provision for health practitioners to exercise their right to conscientiously object to performing or advising on terminations.<sup>1</sup> In our opinion, the Bill strikes the right balance between securing the rights of practitioners who object to providing or advising on terminations and the rights of patients to access healthcare. Importantly, the Bill ensures practitioners comply with their duties to patients to provide a service in an emergency.<sup>2</sup> It is important that the onus is on the practitioner to refer patients seeking termination services to practitioners who are known not to object.

It is important that in making abortion legal, it is not rendered practically inaccessible due to the ability of practitioners to object to performing or advising on terminations. The effect of these practical barriers is particularly challenging for people living in rural and remote communities who have limited choice in medical providers.

## 2. Gestational limits

Young Queenslanders supports the Bill in allowing for terminations of pregnancy to be lawfully performed on request before 22 weeks gestation,<sup>3</sup> and after this point with the consultation of two practitioners, or in an emergency.<sup>4</sup> In our opinion, the gestational limit of 22 weeks is appropriate as it is consistent with current clinic practice regarding the 'threshold of viability' of a foetus (around 23-25 weeks).<sup>5</sup>

We believe that everyone has the right to reproductive freedom, which includes the right to decide whether or not they have children. No one who has decided to terminate their pregnancy wants to remain pregnant for any longer than is necessary. Most people who we have spoken to who have had an abortion due to the desire to not have children have sought out a termination as soon as possible.

However, there are circumstances where people may not be able to access termination services until later in the pregnancy. These circumstances include people living in remote locations who need to travel long distances to access services, people affected by domestic

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<sup>1</sup> *Termination of Pregnancy Bill 2018* s 8.

<sup>2</sup> *Termination of Pregnancy Bill 2018* s 8(2).

<sup>3</sup> *Termination of Pregnancy Bill 2018* s 5.

<sup>4</sup> *Termination of Pregnancy Bill 2018* s 6.

<sup>5</sup> QLRC Report, p. 95.

violence, people who lack financial resources, and young people with non-supportive family members.

#### *Terminations after 22 weeks*

Young Queenslanders strongly supports the provision for terminations of pregnancy to be performed after 22 weeks gestation. Evidence consistently shows the overwhelming majority of terminations occur before 20 weeks.<sup>6</sup> These procedures are rare and almost always involve complex surrounding circumstances such as severe foetal abnormality, the presence of domestic violence, reproductive coercion, or where the patient requires urgent medical treatment which is incompatible with continuing the pregnancy.

The provision of lawful terminations after 22 weeks where certain criteria are met is consistent with the legal position in other Australian states. In our opinion, a gestational limit of 22 weeks reflects the attitudes and opinions of the Queensland public.

Young Queenslanders endorses the process for determining whether a termination after 22 weeks is appropriate.<sup>7</sup> It is important that physical, psychological and social circumstances are all taken into account in this decision. While it is clear what would be captured by physical and psychological circumstances, we note there has been some controversy surrounding what may be classified as a social circumstance.

The inclusion of 'social circumstances' is broad but necessary. The consideration of 'social circumstances' in the context of medical decision-making is consistent with the World Health Organisation's definition of 'health', which includes 'the complete physical, mental and social wellbeing and not merely the absence of disease or infirmity'.<sup>8</sup>

Factors which may fall within the definition of 'social circumstances' include but should not be limited to:

- The presence of domestic and family violence;
- Alcohol or drug abuse;
- Lack of financial resources or homelessness;
- Pregnancy as the result of rape, sexual assault, reproductive coercion or incest; and
- Being a young person or adolescent;

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<sup>6</sup> Approximately 99% of terminations are performed before 20 weeks. See QLRC Report, p. 38.

<sup>7</sup> See *Termination of Pregnancy Bill 2018* s 6.

<sup>8</sup> QLRC Report, p. 263.

It is important that the law allows health practitioners to consider social circumstances such as those listed above to inform their decision on whether a termination is appropriate in all of the circumstances.

### **3. Safe Access Zones**

We strongly support the establishment of safe access zones of at least 150m around termination clinics.

#### *Experiences with anti-choice protesters*

Our members regularly volunteer as escorts to assist patients in accessing clinics safely. The clinic escort program was established by volunteers at Pro Choice Qld as a result of feedback from patients and clinic staff who have experienced harassment while entering and leaving termination clinics. The role of an escort involves offering the patient assistance in entering or leaving a clinic, when there are protestors present.

We see first-hand the traumatic effect this has on patients. We became frustrated at the misleading narrative put forth by protesters. They have consistently claimed that they help patients as 'sidewalk counsellors'. We began filming their behaviours. We captured footage of patients being harassed as they entered clinics (see footage captured outside the Spring Hill clinic in Brisbane on 9 June 2018:

[REDACTED]

The protestors often yell at patients, words to the effect of 'God hates the hands who shed innocent blood', and 'please don't murder your baby'. Protesters also place toy foetuses in the hands of patients and throw inflammatory pamphlets. Patients are also shouted at by protestors through the windows of clinics (see footage capture outside the Spring Hill clinic in Brisbane on 2 June 2018:

[REDACTED]

Some patients who have been targeted by protesters have told us that their behaviour is especially upsetting because they are accessing a clinic due to the loss of a wanted pregnancy, or because they are pregnant as a result of sexual assault. The following is a personal story received from one of our members who wanted to share her experience:

I was sexually assaulted in 2016. This resulted in a pregnancy. After weeks of internal debating, mental health breakdowns and regret, I decided to terminate the pregnancy surgically. I was already a single parent to two very young children at the time... My father drove me in as I wanted no one to know about the pregnancy and termination. When we arrived at the Spring Hill clinic the first thing I noticed ... was honestly about 20-30 people. I assumed that they were protesters and my father and I came up with a plan to avoid them, assuming stupidly that they would stay across the road from the clinic. I was very wrong. When it came time for us to get out of the car and walk in for my appointment, there was easily 15 maybe 20 + people around the stairs of the building, most were holding signs and pictures with the usual spiel of 'you're a murderer, your baby has a heartbeat etc. etc.' however as we got closer they started to bring it in and surround us a little, my father ended up having to physically push through these people when a man grabbed my arm and tried to block my entrance to the clinic, my father (who is ex-military) had to break this man's grip and say a few choice words to him so we could safely get to the doors. This experience for me was almost as traumatic as the reason I was there and the procedure itself.

We also receive stories from clinic escort volunteers, such as the following:

A patient arrived at the clinic with two support people, a young man and an older woman. Protesters were at the front of the clinic, so they used an alternative entrance with our help. Later, the older woman came outside and began talking with the protesters at length. She then went back inside the clinic and came out with the patient to talk to the protesters.

We felt uneasy watching this exchange. It was clear to us that it was not the patient's choice to speak with them. One of the protesters brought over a basket of baby goods for the patient and hugged her.

The patient then left with her support people.

Later, the patient contacted the clinic to say she was nearby and wanted our help to escort her inside the clinic. As she walked with us past the protesters, they told her they had resources in [patient's suburb] to help her. After she entered the clinic, she expressed concerns to one of the escorts about the protesters knowing where she lived, and ask how they knew that information. The patient also told us that the older woman with her told her that she needed to speak with the protesters.

Being pro-choice, we will never intervene or seek to influence a person's choice, or who they speak to, and if the patient had come out to talk to the protesters of her own initiative this would be a very different story.

These examples illustrate the fundamental problem with 'sidewalk counsellors'. Ethical counselling is unbiased, non-judgmental, not underpinned by personal beliefs, respectful of the autonomy of the patient, entered into freely, and conducted privately.

#### 4. Human Rights and Abortion

We refer to and endorse the positions of Australian Lawyers for Human Rights and the Human Rights Law Centre with respect to issues relating to human rights and abortion. Specifically, we endorse the submissions of each organisation to 2016 Parliamentary Inquiry and to the 2018 Queensland Law Reform Commission review on termination of pregnancy laws.

We agree with the observations of international human rights bodies regarding human rights and abortion. These observations include, firstly, that access to termination services is crucial in securing the right to access healthcare and the right to life, particularly for women. This is crucial given the consequences of criminalising abortion, including an increase in unsafe procedures being attempted by patients themselves. Secondly, that the right to life does not extend to the unborn,<sup>9</sup> and that any rights of the unborn should not subordinate the rights of the pregnant person.<sup>10</sup>

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<sup>9</sup> *Paton v United Kingdom* (1980) 3 EHRR 408 at 415; Rebecca Cook, 'International Protection of Women's Reproductive Rights' 24 *NYU International Journal of Law and Politics* 545-727, 647; Louis Waller, 'Any Reasonable Creature in Being' (1987) 13 *Monash University Law Review* 37, 55.

<sup>10</sup> Philip Alston, 'The Unborn Child and Abortion Under the Draft Convention on the Rights of the Child' (1990) 12 *Human Rights Quarterly* 156, 173; Janoff AF, 'Rights of the pregnant child vs. rights of the Unborn under the Convention of the Rights of the Child' (2004) *Boston University Law Journal* 22(1) 163-188, 171; Luisa Blanchfield, 'The United Nations Convention on the Rights of the Child: Background and Policy Issues' (2010); Rebecca Cook and Bernard Dickens, 'Human Rights Dynamics of Abortion Law Reform' (2003) 25 *Human Rights Quarterly* 1, 24.