



Submission to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee regarding the *Termination of Pregnancy Bill 2018*

September 2018

## Who we are

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Pro Choice Qld is a grassroots group of organisations and individuals campaigning for the removal of abortion from Queensland's *Criminal Code*. We believe that laws criminalising abortion are the single biggest barrier to women's reproductive choice in this state. For further information please visit our website [\[REDACTED\]](#)

We seek changes to the law which would:

- maximise women's reproductive rights and freedoms,
- provide the legal certainty necessary for doctors to provide best patient care for Queensland women, and
- reflect advances in medical practice and community attitudes.

Our supporters include over 70 individuals and organisations from health, community and women's groups, including:

- Australian Association of Social Workers (AASW)
- Australian Clinical Psychology Association (ACPA)
- Australian Women's Health Network
- Australian Manufacturing Workers Union (AMWU)
- Brisbane Rape and Incest Survivors Support Centre
- Cairns Doctors
- Centre Against Sexual Violence
- Children by Choice
- Domestic Violence Action Centre (DVAC – formerly known as The Ipswich Women's Centre Against Domestic Violence)
- Dr Caroline de Costa, Professor of Obstetrics and Gynaecology, James Cook University
- Ending Violence Against Women Queensland (EVAWQ)
- EMILY's List Australia
- Fair Agenda
- Family Planning Alliance Australia
- Gold Coast Centre Against Sexual Violence Inc.
- Greenslopes Day Surgery
- Gympie & District Women's Health Centre
- Health Consumers Queensland
- Human Rights Law Centre
- Humanist Society of Queensland

- inPlace
- International Planned Parenthood Federation (IPPF)
- James Cook University College of Medicine Dept of O&G
- Logan Women's Health and Wellbeing Centre
- Mackay Women's Services
- Marie Stopes Australia
- Maternity Choices Australia
- Micah Projects
- National Foundation for Australian Women
- National Union of Students
- North Queensland Domestic Violence Resource Service
- North Queensland Women's Legal Service
- One Woman Project
- Pro Choice Cairns
- Professor Lindy Willmott
- Public Health Association of Australia (Queensland)
- Queensland Council for Civil Liberties
- Queensland Council of Unions
- Queensland Greens Women's Network
- Queensland Teachers' Union (QTU)
- Queensland Women's Health Network
- Reproductive Choice Australia
- Rockhampton Women's Shelter
- Rockhampton Women's Health Centre
- Salisbury Day Surgery
- Reason (formerly the Australian Sex Party)
- Sera's Women's Shelter Inc
- Sexual Health Society of Queensland
- Sisters Inside
- Sunnybank Hills Family Practice
- Sustainable Population Australia (Queensland)
- True Relationships & Reproductive Health
- The Services Union
- The Women's Community Aid Association
- Union of Australian Women
- WESNET
- White Ribbon Australia
- WWILD- Sexual Violence Prevention Association
- Women's Abortion Rights Campaign
- Women's Centre Cairns
- Women's Centre Townsville
- Women's Electoral Lobby Australia
- Women's Health Queensland Wide
- Women's Health Information & Referral Service Central Qld
- Women's Information and Referral Exchange (WIRE)
- Women's Legal Service Queensland
- Women's House – Shelta
- Working Against Violence Support Service (WAVSS)
- Working Women Queensland
- Young Queenslanders for the Right to Choose
- Youth Affairs Network Qld (YANQ)
- YWCA Queensland

- Zig Zag: Young Women's Resource Centre

With over 70 organisations spanning health, medical, community, legal, political, and activist backgrounds supporting our campaign, it should come as no surprise that our submission and those from our campaign supporters may differ in some small aspects.

Organisations' viewpoints about the issues of gestational limits, or conscientious objection, for example, may vary slightly, as their positions are driven by their membership or their different experiences in aspects of abortion care.

However, all signatory organisations and individuals are united in our belief that termination of pregnancy must be decriminalised in Queensland and treated like other health procedures, in a framework that trusts women and doctors, provides legal certainty, and, where possible, removes barriers to access for vulnerable Queenslanders.

The positions arrived at by Pro Choice Queensland in response to the Commission's consultation questions are all underpinned by the principles that abortion is a matter for a pregnant person and their doctor and that clinical decisions are best made by clinical professionals.

## Responding to the Committee's questions

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

**Yes.** Pro Choice Qld does not believe a gestational limit is required, but we recognise that a staged approach to decriminalisation has been recommended by the Queensland Law Reform Commission (QLRC) and we support said recommendation.

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

**Yes.** Professional standards and clinical guidelines for practitioners already dictate when a clinician should consult with colleagues before or during treatment, and we therefore believe that Clause 6 of the Bill should be passed without amendment.

We note that current clinical and licensing frameworks in Queensland require any termination provided after 22 weeks gestation to be carried out in a hospital facility.<sup>1</sup> As these requirements are independent of the legislating governing termination of pregnancy, it is unlikely they would differ were the law to change.

Along with the extensive training and registration processes for clinicians involved with the small proportion of terminations that take place at later gestations, there are clear practice guidelines and clinical standards governing treatment options for complex pregnancies, including pregnancy termination,<sup>2</sup> as well as hospital level procedures and approval processes which must be met in order for any treatment to be authorised.<sup>3</sup>

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<sup>1</sup> Maternity services module CSCF v3.2' Queensland Health. 2013. Online at [REDACTED]

<sup>2</sup> See for example the *Queensland Maternity and Neonatal Clinical Guideline: Therapeutic Termination of Pregnancy* available on the Queensland Health website at [REDACTED]

<sup>3</sup> See for example the evidence provided by Professor David Ellwood, Maternal Fetal Medicine specialist, to the Parliamentary Committee for Health, Communities, Disability Services, and Domestic and Family Violence Prevention Committee: public hearing, 4 August 2016, transcript at [REDACTED]

While Pro Choice Qld recognises there are professional standards and clinical guidelines for practitioners which already dictate when a clinician should consult with colleague before or during a treatment,<sup>4</sup> we support the QLRC recommendation and the legislation for a Doctor to consult with another Doctor after 22 weeks. Any deviation from this consultation between medical practitioners would be outside of clinical guidelines and current practice and create potential barriers to access for a procedure that is already time sensitive. This would disadvantage already vulnerable women and will disproportionately affect rural and regional Queenslanders access to reproductive healthcare at a distressing and traumatic time.

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

**Yes.** In the event of an emergency, a practitioner should be allowed to provide a termination to a patient.

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

**Yes.** While Pro Choice Qld's submission to the QLRC advised it was not necessary to include a conscientious objection clause, having read the Commission's report, we support the inclusion of Clause 8 as currently drafted.

Conscientious objection, along with other areas of practice like gestational limits and consultation with other medical professionals, is already covered by clinical guidelines, professional standards, and registration bodies for practitioners<sup>5</sup>. Conscientious objection is relevant to other medical procedures, not exclusively termination of pregnancy, and in every other case is bound by existing clinical frameworks and Codes of Conduct.<sup>6</sup>

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<sup>4</sup> 's3.2 Facility level approval' in *Queensland Maternity and Neonatal Clinical Guideline: Therapeutic Termination of Pregnancy*. 2014. Online at: [REDACTED]

<sup>5</sup> See for example s3.2 Facility level approval in *Queensland Maternity and Neonatal Clinical Guideline: Therapeutic Termination of Pregnancy* available on the Queensland Health website at [REDACTED]

<sup>6</sup> Queensland Law Reform Commission, 'Conscientious Objection' in *Review of termination of pregnancy laws* (2018), p. 117. Online at: [REDACTED]

**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?**

**Yes, Pro Choice Qld strongly supports the establishment of safe access zones.** While protesting outside of clinics that offer termination services is not a new phenomenon, this harassing behaviour has grown exponentially since the beginning of 2018. At the request of several clinics in Brisbane that offer termination services, volunteers from Pro Choice Qld have been organising rosters of volunteers each week to stand outside of said clinics 5 days a week for 8 months.<sup>7</sup> The Clinic Defenders, as the volunteers are collectively known, have witnessed the worst kinds of behaviour while escorting clinic patients to the front doors.

Clinic Defenders have both witnessed and recorded a number of interactions between anti-abortion protesters and patients attempting to enter a clinic. These interactions and attempts to intimidate clinic patients have included:

- A protester following a woman that had just walked out of a clinic to a car where her partner and children were waiting for her in, leaning into the open window and addressing her children by saying, “mummy has just killed your baby brother or sister”;
- A protester telling a clinic defender volunteer that, “one day people will look back on people like you and wonder what were you thinking. Just like those who advocated for slavery, just like those that defended the Nazis, one day people will look at you and despise you. And one day, most importantly, you’re going to have to give an account to God of your actions, including being a part of murder”;
- A protester yelling into the consultation rooms of a clinic from the street, standing approximately 1 metre away from the window;
- Staff being chased away from their workplace by anti-abortion protesters with shouts of “murderer”;
- Protesters leaving baby clothes, shoes and other supplies on the steps leading up to a clinic and on clinic premises;
- A protester telling a woman entering a clinic that “God hates the hands that shed his blood”. The woman attempting to enter the clinic responded, saying, “just shut up - what you’re saying is so traumatic”. The protester replied that she was here to help the woman and the woman replied that she did not want the help of the protester;

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<sup>7</sup> Smee, Ben. 2018. “Evangelical Christians step up abortion clinic protests in Queensland”, *Guardian Australia*.  
Online at: [\[REDACTED\]](#)

- Protesters harassing the Pro Choice Qld volunteers by calling them murderers, baby killers and other associated terms;
- Protesters following the Pro Choice Qld volunteers up the stairs of the clinic, constituting trespass;
- Protesters continuing to yell out slurs and make comments such as “you have blood on your hands” and “you will have to face God on judgement day and confess your sins as a murderer”, even after the patients and support people have entered the clinic;
- Protesters have consistently brought distressing and intimidating signs with them to display around the clinics. These have included scientifically inaccurate pictures of fetuses as well as phrases such as “babies are murdered here”, “support mothers, not abortion”, “a person is a person, no matter how small”, “a baby in the womb already has its own set of unique set of DNA”, “a baby has a heartbeat at 21 days in the womb”, and “Christ died for our sins according to the Scriptures”;
- Pro Choice Qld volunteers have seen anti-abortion protesting action outside of clinics cause patients and their support people to be visibly distressed and even break down crying once they enter the clinics.
- Clinic staff have asked for police escorts into their place of work because of the anti-abortion protesters, fearing for their safety on entering.
- Clinic staff have mentioned the impact the heightened adrenaline and distress caused by anti-abortion protestors that has an effect on the patient's medical care, including administration of anaesthetic.

It is clear from the above examples that safe access zones are a necessary and crucial part of the *Termination of Pregnancy Bill 2018*. Not only for women and their support people entering a clinic, but also for clinic staff.

Despite this, we would like to voice our strong opposition to the size of these zones being at the discretion of the relevant Minister. Despite Clause 14(4)'s statement that the increase or decrease of the zone must achieve the purpose of the safe access zones, we believe this ministerial discretion potentially allows for a Minister's personal belief and ideology to override measures intended to prioritise the best interests of patients and staff of abortion provider premises.

Pro Choice Qld are also concerned about Clause 15 of the Bill, as it currently puts the burden of proof on prosecutors regarding whether conduct by a person in a safe access zone would be “reasonably likely to deter” someone from entering a clinic. This Clause does not include a list of prohibited behaviours, unlike existing legislation in Victoria and New South Wales. Therefore, Pro Choice Qld would recommend that



the Committee consider adding a similar clause to those of Section 185B of the *Public Health and Wellbeing Act 2008* (Vic)<sup>8</sup> and Sections 98C and 98D of the *Public Health Act 2010* (NSW).<sup>9</sup> Such a clause would prohibit harassing, intimidation, besetting, threatening, hindering, obstructing or impeding by any means a footpath or road without an excuse in a safe access zone.

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

**Yes.** Pro Choice Qld supports the proposed offences as outlined in Clause 25.

**Other issues - mandatory counselling**

Pro Choice Queensland supports the availability of all options counselling for anyone who wishes to access it, we believe that legislating an offer of counselling is not the best way of ensuring accessibility to counselling, and in fact may provide more opportunities for harm than good. Our concerns around this issue include the lack of definition of counselling, who would be offering or providing the counselling, whether there would be any requirement for a particular framework for the counselling they provide, and the fact that counselling is at present an unregulated term in Australia with no minimum registration or training requirements.

We believe that the practice guidelines and professional standards already governing informed consent for medical procedures provide an adequate framework for the offer of counselling where it may be useful or necessary.

We are also concerned about what a 'requirement to offer counselling' may mean for women inadvertently seeking information on pregnancy options from a practitioner who holds an objection to abortion. Many GPs are reluctant to offer or refer for abortion, especially in rural communities, and we are concerned a requirement to offer counselling could provide them with an opportunity to either provide biased or anti-abortion 'counselling' themselves or refer a patient to an anti-choice counselling service.

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<sup>8</sup> Victorian Parliament. *Public Health and Wellbeing Act 2008* (VIC). Online at:

<sup>9</sup> NSW Parliament. *Public Health Act 2010* (NSW). Online at:

In addition, the lack of transparency in advertising for pregnancy counselling services mean it would be difficult for doctors and patients to differentiate genuine all options services from those operating from an anti-abortion bias.

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

**Yes.** Pro Choice Qld are happy for the Committee to publish our submission.

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

**Yes.** Pro Choice Qld would welcome the opportunity to appear as a witness before the committee. We have insights into the ongoing situation while abortion remains in the *Criminal Code* that no other organisation has.