

Dr Kathleen Baird

24<sup>th</sup> June 2016

**Re. Submission to the Health, Communities, Disability Services, and Domestic and Family Violence Prevention Committee on the Abortion Law Reform Amendment Bill 2016 and Inquiry into laws governing termination of pregnancy in Queensland.**

Dear Members of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee,

I am writing in regards to the committee's recent hearing regarding the *Abortion Law Reform Woman's Right to Choose Amendment Bill 2016* with the Member for Cairns, Rob Pyne, on 15 June.

I am writing in support of the Bill. The Bill if passed will ensure that abortion was regulated in the same way as all other surgical and medical practices. It will remove the threat of prosecution for women and doctors seeking or providing abortion. Queensland and New South Wales are now the only two states in Australia where a woman can be prosecuted for accessing an abortion and I understand that New South Wales is currently considering legislative change.

The Queensland abortion law is archaic and unclear, for instance, the Queensland Criminal Code statutes on abortion date from 1899, were based on UK legislation from 1861 – before women had the right to vote, before commercial flights and space travel and flushing toilets, and before doctors started washing their hands to prevent the spread of disease. Medical practice

has come a long way since then and the law no longer reflect the reality of clinical service provision.

While sections 224, 225 and 226 of the Queensland Criminal Code provide for criminal sanctions and jail terms for women 'unlawfully' having abortions and doctors 'unlawfully' providing them, they give no definition of what constitutes a lawful or unlawful abortion. The Criminal Code combined with case law from 1986 is generally accepted to mean abortion is regarded as lawful if performed to save a woman's life or to prevent serious harm to her physical or mental health, but it's all very much open to interpretation and no legal definitions of what constitutes 'serious harm' exist. This means individual doctors and hospitals make their own decisions as to what the law means for their patients and which services they will offer and refer for.

Better access to abortion services will significantly reduce the stress experienced by the thousands of women each year who are unable to afford the abortion costs through a private provider, or who find it difficult to access services due to living in a rural or remote location and are unable to arrange childcare or time off work if they need to travel for an abortion. Currently, if you are a woman or couple with the ability to pay to access an abortion through the private system, live or are able to travel to one of the private clinics that provide this service to the entire state, or to a doctor who can provide a medical termination, then accessing a termination of pregnancy is not a problem. If however, you happen to live outside of South East Queensland, and/or unable to afford the fee and associated costs, then accessing a termination is very difficult, at what is already a very stressful time for a woman.

The introduction of the *Therapeutic Termination of Pregnancy Guidelines* in 2013 held great promise for increased access for Queensland women needing to access abortion through the public health system. However, the reality is that adherence to these guidelines is up to hospital administration and many hospitals are not adhering to them because they are afraid of the legal implications of providing abortion services, even though the guidelines say that

they should. If abortion is to be removed from the Criminal Code I believe many more hospitals will comply with these guidelines.

An argument is offered that section 282 of the Queensland Criminal Code provides adequate protection for clinicians regarding the provision of abortion. However, the continued challenge of public hospitals and clinicians not providing or assessing women for eligibility for abortion shows that clinicians do not feel that s282 provides adequate protection against sections 224 or 226 of the Queensland Criminal Code. It is also worth noting that s282 does not protect women, only clinicians. While sections 224, 225 and 226 of the Queensland Criminal Code provide for criminal sanctions and jail terms for women 'unlawfully' having abortions and doctors 'unlawfully' providing them, they give no definition of what constitutes a lawful or unlawful abortion. This means individual doctors and hospitals make their own decisions as to what the law means for women and which services they will offer and refer for.

No woman wants to or makes the decision to have an abortion without due consideration. Therefore the ability to access supportive, non-directive and non-judgmental counseling is essential.

For some women their pregnancies occur through non-consensual sex, i.e. sexual assault, and severe violence, yet, they are regularly turned away from Queensland's public hospitals when they request an abortion. Unplanned pregnancy is a reality for Australian women – and therefore so is abortion. It is estimated that half of all pregnancies in Australia are unplanned and that more than one in four Australian women will have an abortion at some point in their lifetime. No contraception is 100% effective and contraception can fail even when used correctly and consistently. The most common contraceptive in Australia, the oral contraceptive pill, is around 91% effective at typical use, meaning that up to nine women out of every hundred using it will fall pregnant in a year<sup>2</sup>. In such situations women should be able to make their own moral judgments about what is best for them at the time, supported by non-judgmental counseling and support services such as Children by Choice.

Based on the above information I urge you to support the Private Member's Bill to decriminalise abortion in Queensland.

Kind regards

Dr Kathleen Baird