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Sisters Inside Inc. is an independent community organisation which exists to advocate for the human rights of women in the criminal justice system

Research Director
Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee
Parliament House
George Street
Brisbane Qld 4000

By email: abortionlawreform@parliament.qld.gov.au

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Dear Committee Members

Sisters Inside strongly supports the removal of abortion from the Queensland Criminal Code, and the principles underpinning the *Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016*. As one of only two Australian states where abortion is still a criminal offence, it is time for our government to remove sections 224, 225 and 226 of the *Criminal Code 1899 (Qld)* so that women accessing abortion, and those who assist them, are free of the risk of prosecution. In addition, Sisters Inside supports extending the legislation to include:

- Provisions of the type instituted in Victoria, which make it illegal for anti-abortionists to harass or interfere with women within 150 metres of any health facility where abortions are performed.
- Affirmation of the right of women prisoners to access abortion (and other reproductive health) information, services and programs commensurate to those available to women in the wider community.

This submission builds, wherever possible, on earlier more detailed, evidence-based submissions.

Sisters Inside exists to advocate for the human rights of women in the criminal justice system. We also provide services in response to the unmet human rights and needs of criminalised women. Currently, the access of women prisoners and other criminalised women to safe, legal abortion is arbitrary and limited. Women prisoners are entirely dependent on the judgement of prison health authorities for a decision about whether, or not, they can have a termination whilst in prison. Criminalised women and their children are highly marginalised, and are one of the most disadvantaged cohorts in the Queensland population. Accordingly, they are subject to many of the barriers to safe, legal abortion detailed below – most particularly, cost and geographic location (particularly for Aboriginal and Torres Strait Islander women). **Inconsistent access to safe, legal terminations is just one example of the many human rights of criminalised women which are currently being routinely breached in Queensland.**

Women's control of their own fertility and reproduction is a human right. Several submissions (particularly 44 and 120) have detailed a wide range of United Nations agreements and instrumentalities that recognise and detail this human right, and highlight the particular impact of a failure to implement legislation and practices consistent with these rights on women and girls. Sisters Inside believes that current Queensland legislation is in contravention of international agreements. It is essential that safe, legal abortion be (financially and otherwise) accessible to all women in Queensland. It is essential that all legal and other barriers that interfere with women's right to make their own decisions about their health are removed.

In Queensland, power over women's fertility and reproduction is in the hand of the legal system and doctors. Women should not be dependent on the judgement of doctors regarding their

mental or physical health in order to access the means to control their own fertility and reproduction. Women are currently required to play a demeaning and helpless role in order to assure a health professional that they justify an abortion on physical or mental health grounds. Repeal of relevant sections of the Criminal Code and new legislation is essential to giving power to women (and removing the fear of prosecution from doctors).

Legislating morality is not the role of governments (or doctors). Queensland law currently stigmatises women who choose to have an abortion and serves to reinforce conventional gender roles. The 19th century draconian legislation which criminalises abortion is notably in the chapter entitled *Offenses Against Morality*. Current criminal law places personal moral judgments in the hands of the State and medical profession, rather than the woman. Women are capable of, and entitled to, make intelligent and private moral decisions about their own fertility and reproduction.

National and international evidence demonstrates that outlawing abortion does not stop women having abortions, and that legalising abortion does not lead to an increase in abortion rates (as detailed in Submissions 44 & 93). However, it does make abortion less safe, and discriminates against some groups of women. The evidence suggests that between 1 in 3 and 1 in 4 Australian women will have an abortion at some point in their life (<https://prochoiceqld.org.au/why/>; Submissions 106, 93 & 121), and that 10,000 – 14,000 abortions occur in Queensland each year (Submissions 93 & 116). However, an estimated 99% of these occur in the private sector and limited locations (Submissions 91 and 116) – making abortion less accessible to women from rural and remote areas and women on low incomes. (Further, limited public access to information about abortion disadvantages young women and women with limited English language literacy.)

Abortion is necessary in any civilized society. Submissions 91 and 105 cite significant studies which found that approximately 80% of Australians support women's choice as to whether or not to have an abortion (with only 9-10% disagreeing with this right), and 80% of Queenslanders wanted the law changed. It is patently absurd that the personal values of a small proportion of the population should remove moral choices about their fertility and reproduction from women themselves. It is absurd that at least 25% of Queensland women are at risk of criminalisation for making a personal moral choice.

No woman wants to have an abortion, however many consider this the responsible choice. Having a child is a major responsibility and not everybody is in a position to take on this challenge. In particular, women from socially disadvantaged and marginalised groups are often poorly placed to take on the added cost of rearing one or more children. Further, domestic and family violence, incest, rape, disability, homelessness and poverty can reduce women's ability to avoid an unplanned pregnancy. It is important to note the wide variety of circumstances that can lead to the difficult decision to have an abortion - contraception failure, sexual assault, serious foetal health conditions, medical complications, homelessness, a threat to the woman's life/health (Submissions 89, 110 & 116). Sadly, there are repeated accounts of women being regularly turned away from Queensland public hospitals when requesting abortion (<https://prochoiceqld.org.au/why/>) – the doctor's case studies detailing 3 critically ill women's experiences in Queensland Health public hospitals are particularly shocking (Submission 121) and highlight the need for legislation to ensure women's access to affordable abortion in the public health system.

Abortion services should be a normal part of the mainstream healthcare system, and readily available through public hospitals and other Queensland Health service – and the inalienable right of women prisoners to access the same level of abortion services as women in the general community must be instituted. The evidence suggests that only 1% of Queensland abortions are done in public hospitals (<https://prochoiceqld.org.au/why/>). *Once the abortion laws have been repealed, there should be no impediment to having abortions performed in public hospitals* (Submission 93). With medical abortions costing \$500-\$800 (more than any fortnightly Government Payment) and surgical abortions costing up to \$1,550 in private clinics (Submission 105), too many low income women resort to unsafe terminations. (The medical consequences of unsafe abortions can also incur increased cost to the healthcare system over time.) Significantly increased access to abortions in public hospitals is essential to overcome the discrimination currently faced by low income women.

There are many valid medical reasons to support this proposal. The Queensland Nurses Federation (Submission 86) particularly highlights the widespread support for women's access to legal and safe abortion across health care professions, including the Australian Medical Association, and advocates for improving access to reproductive health information, services and programs to women who are geographically, culturally or economically disadvantaged. This includes women prisoners and the majority of criminalised women from other socially disadvantaged and marginalised groups. Further, Submission 120 lists over 12 key national and international medical and allied health care professional bodies which support women's right to access safe, legal abortion.

Women should have access to quality, non-biased counselling, if they want this. As highlighted by the doctor who wrote Submission 116, the majority of women requesting early abortion have their decision *already quite firmly made* and do not need or want counselling. She cites studies finding that only 6% - 10% of women are uncertain of their decision and seek counselling. All women who prefer support to make the decision, should have access to quality, specialist, non-biased counselling to enable them to choose between continuing their pregnancy and keeping the baby, having the baby put up for adoption, and having an abortion. As highlighted in Submission 91, it is critical that counselling is never enforced. Accessing abortion should never be predicated on a requirement for women to justify their personal moral decision to a health professional.

Women must be protected from services with ulterior motives, whose values preclude abortion as an equal choice for women. Sisters Inside supports the position put in Submission 93 - that Children by Choice is currently the only independent, impartial, non-judgemental specialist pregnancy counselling service which supports women's self-determination in Queensland, and should therefore be the only service receiving government funds. Women considering or seeking an abortion should also be protected from further harm, through establishment of a 150 metre *buffer zone* around health services which provide abortions.

Sisters Inside strongly recommends that the Committee to recommend that the Abortion Law Reform Bill be passed for the sake of all Queensland women, their families and their doctors. Thank you for considering our submission.

Your sincerely

Deborah May Kilroy (CEO)