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To – Health, Communities, Disability Services and Domestic and Family Violence Prevention  
Committee – Parliament of Queensland

*Re: Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016*

I support the removal of abortion from Queensland's 1899 Criminal Code.

I am a Counsellor at Children by Choice, an all options (Parenting, Abortion, Adoption) counselling, information and advocacy service for women with unplanned pregnancies. I make this submission from both a professional and personal viewpoint. From a professional perspective, I have been assisting women in accessing termination of pregnancy for the last 12 months and acquired significant knowledge on the impact of the current laws on provision of abortion services in Queensland. From a personal perspective, I am from a Catholic background was raised with very different views to those I hold now. Not only do I strongly argue for the rights of women to choose, but I do so with respect to those who disagree with me. I believe the right to choose must include the choice to proceed with a pregnancy, just as much as it must include the right to choose not to. The decriminalisation of abortion in the Queensland Criminal Code will enable an equal choice for all women.

In this submission I intend to address each term of reference, paying particular attention to items 1, 3 and 5 (I will provide Appendices regarding items 2 and 4). I intend to provide evidence-based reasoning for my viewpoint, and conclude with a personal statement presenting my argument for law reform.

### **1. Existing practices in Queensland concerning termination of pregnancy by medical practitioners.**

Whilst the existing medical practices regarding the provision of abortion in Queensland are safe, access to the provision is limited and difficult.

At present, abortion access in Queensland is largely acquired through private clinics that operate throughout the state. Of the ten private clinics existing, seven are located in South East Queensland<sup>1</sup>. In addition to these clinics, a small number of GPs are also licensed and registered to provide Medication Abortion<sup>2</sup>, providing access for women in regional and remote areas, however, not allowing for women who would prefer a Surgical Abortion<sup>3</sup>. The dominance of private clinics being the only avenue for women to access termination is having a significantly negative impact on

women's choice. In the Children by Choice Annual Report (2014/2015, p. 7)<sup>4</sup> 60% of women contacting the service did so for financial assistance. With the cost of an abortion ranging from \$350.00 - \$3950.00 (depending on location/gestation)<sup>5</sup> it is not surprising that women are struggling to find the money required for a termination.

This existing practice is primarily disadvantaging the most vulnerable. Lower socio-economic; culturally diverse; victims of domestic violence and sexual assault; and young women are those that struggle the most to access abortion in Queensland.

Public provision of abortion through the Queensland Health System is largely non-existent, with very few hospitals adhering to the Queensland Health Guidelines<sup>6</sup>. The 'postcode lottery' dictates whether a woman can access a Therapeutic Termination of Pregnancy and those who live within the catchment area of unfavourable hospitals will almost always be forced to go to a private clinic.

An example of one such case is that of 'J' who is a 14 year old homeless Brisbane woman. J has been using drugs and offering sexual favours for the purpose of acquiring accommodation. Child Safety has been involved, but no order taken out – so J is unable to access formal accommodation support. Due to her age, J is also unable to access any government income – so has absolutely no money. J is unsure who the man involved in the pregnancy is, as she has had multiple partners. J's last address was in Inala, placing her in the catchment area for the Mater Hospital in South Brisbane.

Unfortunately, as this hospital is openly affiliated with the Catholic religion, no provision of termination will be offered. As a result of this, support was given for J to access a private clinic and a call put out for donations from the public to enable payment for the termination.

Whilst it is accepted that existing practices in private clinics provide safe abortions, the limited and costly access to clinics (and non-existent access to hospitals) is leading to more dangerous practices in the community. In the 2014/2015 Children by Choice Annual Report (p. 7)<sup>4</sup> 118 contacts to the service reported attempting self-abortion. This demonstrates that whilst existing medical practices are safe, lack of access is causing situations where unsafe practices are being utilised by women.

*See Appendix 1 re Term of Reference 2 (Existing legal principles that govern termination practices in Queensland).*

**3. The need to modernise and clarify the law (without altering current clinical practice), to reflect current community attitudes and expectations.**

As has been established, the current law is 117 years old and whilst this, alone, should justify its modernisation, there are other more pressing issues related to its current form. As mentioned in my previous argument regarding existing practices, public provision of abortion services in Queensland

is largely non-existent, despite Queensland Health guidelines providing clear instructions on how terminations should be approached in the hospital system. I believe the current law is not only outdated, but causes confusion amongst those required to apply it, causing situations such as the one recently publicised regarding the 12 year old woman in Rockhampton<sup>8</sup>.

From my professional experience as a counsellor at Children by Choice, I can confirm that questions around the legality of abortion in Queensland are regular. Callers from interstate and overseas are often shocked when information is provided about the current legalities. Many women are unaware that we are still operating under a law from 1899.

When considering current community attitudes and expectations, there is a great deal of evidence to support the argument that Queensland residents are ready for law reform. An Auspoll survey conducted during the 2007 elections found that a majority of both Labor and Liberal voters support abortion rights (54% Liberal voters and 60% Labor voters)<sup>9</sup>. The same survey indicated 79% of Queensland residents support women being able to readily acquire an abortion when they want.

Further to the obvious support for women's choice, there is also the fact that approximately 15,000 abortions took place in Queensland in 2009 (based on Medicare data), regardless of the current legislation<sup>10</sup>. The rates of abortion are also higher in Australia where legislation is still very prohibitive, compared to countries like Germany and The Netherlands who have easily accessible contraception and abortion services<sup>11</sup>.

#### **5. Provision of counselling and support services for women.**

Children by Choice provide all options counselling to women in Queensland seeking support with an unplanned pregnancy. Although some women contact because they need help in making a decision, many more contact requesting financial assistance in accessing a termination after they have already made their choice. As an unbiased service, we believe it is the woman's right to choose how she wants to proceed with the pregnancy and if a woman has indicated a desire not to proceed, we support her in that decision.

There is a danger in implementing mandatory counselling for women seeking an abortion for a number of reasons:

- Pregnancy termination is a time-limited issue and delays resulting from mandatory counselling could limit women's choice if there are problems in access to counselling services and high gestation.
- For women who have already carefully considered their options and are satisfied with their decision, forced counselling can only serve to waste time and money at best or

have negative emotional impacts at worst (if the client feels 'forced' to participate in unwanted personal conversations to justify their decision).

- Counselling services are occasionally not transparent, resulting in women unwittingly accessing anti-abortion services and, therefore, getting misinformation and biased counselling, leading to greater levels of emotional harm<sup>12</sup>.

As a counsellor for women experiencing unwanted pregnancy, I have first-hand professional knowledge of the emotional and mental processing women engage in before making their decision regarding how to proceed. While some may find this process difficult, others do not – but one commonality exists for all women – this is never a decision taken lightly.

### CONCLUSION

In conclusion I would like to repeat that I strongly support the removal of abortion from the Queensland Criminal Code.

Despite my upbringing as a Catholic and being taught to oppose abortion, through my understanding of the facts and my professional work with women who experience unplanned pregnancy, I firmly believe that women need to have the right to make their own reproductive choices and that no one should force a woman to proceed with an unwanted pregnancy.

As is evidenced in the research and the statistics presented throughout this submission, the current laws serve to limit access and enable dangerous self-abortion practices. Public consensus supports women's right to access terminations. The laws are not preventing women seeking terminations, nor are they lessening the number of terminations provided in Queensland. With this in mind, I struggle to understand the purpose or intention of the current laws.

I recognise that abortion is an issue which carries great emotional weight and as I mentioned in the opening statement of this submission, I respect the opinions of others and uphold their rights to their views, however, law should be based on evidence and fact, not on religious, emotional or individual opinion.

The law should reflect the human rights of everyone. It is for that very reason that abortion should be removed from the Criminal Code. I respect *every* woman's basic human right to choose.

Michelle Reynolds

## APPENDIX 1

### 2. Existing legal principles that govern termination practices in Queensland.

The Queensland Criminal Code (1899) Sections 224-226 are the existing legal principles related to termination practices in Queensland:

**Section 224.** *Any person who, with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, is guilty of a crime, and is liable to imprisonment for 14 years.*

**Section 225.** *Any woman who, with intent to procure her own miscarriage, whether she is or is not with child, unlawfully administers to herself any poison or other noxious thing, or uses any force of any kind, or uses any other means whatever, or permits any such thing or means to be administered or used to her, is guilty of a crime, and is liable to imprisonment for 7 years.*

**Section 226.** *Any person who unlawfully supplies to or procures for any person anything whatever, knowing that it is intended to be unlawfully used to procure the miscarriage of a woman, whether she is or is not with child, is guilty of a misdemeanour, and is liable to imprisonment for 3 years.<sup>7</sup>*

Section 282 also relates, offering a defence for medical practitioners charged under the Act<sup>7</sup>:

*A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill a surgical operation on or medical treatment of:*

*a) a person or unborn child for the patient's benefit; or*

*b) a person or unborn child to preserve the mother's life;*

*if performing the operation or providing the medical treatment is reasonable, having regard to the patient's state at the time and to all circumstances of the case.*

Further to Section 282, legal precedent is also in existence to defend practitioners who are charged.

R v Bayliss and Cullen provided an argument to defend practitioners charged under the current abortion law, stating that abortion is lawful if that abortion was:

- Necessary to preserve the woman from a serious danger to her life or physical or mental health (not being merely the normal dangers of pregnancy and childbirth) which the continuance of the pregnancy would entail; and
- In the circumstances not out of proportion to the danger to be averted<sup>7</sup>

The last area of the Criminal Code related to abortion is Section 313 (2)<sup>7</sup>:

Under section 313 (2), it is crime to unlawfully to assault a pregnant woman and destroy the life of, do grievous bodily harm to, or transmit a serious disease to, "the child" before its birth. The penalty for this offence is life imprisonment.

## APPENDIX 2

### 4. Legislative and regulatory arrangements in other Australian jurisdictions including regulating terminations based on gestational periods.

**Queensland & New South Wales:** Abortion a crime for women and doctors. Legal when doctor believes a woman's physical and/or mental health is in serious danger. In NSW social, economic and medical factors may be taken into account.

**Australian Capital Territory:** Legal, must be provided by medical doctor.

**Victoria:** Legal to 24 weeks. Legal post-24 weeks with two doctors' approval.

**South Australia:** Legal if two doctors agree that a woman's physical and/or mental health endangered by pregnancy, or for serious foetal abnormality. Unlawful abortion a crime.

**Tasmania:** Legal to 16 weeks on request, and after that point with the approval of two doctors.

**Western Australia:** Legal up to 20 weeks, some restrictions particularly for under 16s. Very restricted after 20 weeks.

**Northern Territory:** Legal to 14 weeks if 2 doctors agree that woman's physical and/or mental health endangered by pregnancy, or for serious foetal abnormality. Up to 23 weeks in an emergency.

<http://www.childrenbychoice.org.au/info-a-resources/facts-and-figures/australian-abortion-law-and-practice>

## REFERENCES

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