

From: [Carole Ford](#)
To: [Abortion Bill](#)
Subject: [SPAM ?] Submission to the Committee Health (Abortion Law Reform) Amendment Bill 2016
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Health (Abortion Law Reform) Amendment Bill 2016

On June 30th I made a submission to **Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016 and Inquiry into laws governing termination of pregnancy in Queensland (Submission No. 828)**

This submission is an addendum to my previous submission, as it addressed many of the terms of reference for the current Health.(Abortion Law Reform) Amendment Bill 2016.

Introduction:

In their published report on **Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016 and Inquiry into laws governing termination of pregnancy in Queensland, the Committee** [Bill 1] the Committee was unable to make a recommendation that the Bill be passed. After an incredible commitment to an enormous task, it appears the Committee were concerned that the Bill was unsustainable, as it "failed to address a number of important policy issues" which although implicit in existing health policy, needed to be stated explicitly.

The proposed subsequent Bill, **Health (Abortion Law Reform) Amendment Bill 2016**, [Bill 2) is designed to ensure that the misgivings of Committee Members and the public alike are recognised and integrated into government policy. This is a secular state, and public support for decriminalisation of abortion has majority public endorsement. I fully support flexibility in the political process appropriate to achieve this outcome.

There are a number of strategies that could be implemented to clarify the situation:

1. Consider voting on Bill 1 and then voting on Bill 2
2. Consider voting on Bill 2 before voting on Bill 1
3. Consider voting of Bill 1 and Bill 2 simultaneously

If it complies with parliamentary protocols, I am hopeful that the government adopts either strategy 2 or 3 to ensure that abortion law is not dismissed on a technicality. Queensland women deserve better.

Matters for discussion in the *Health (Abortion Law Reform) Amendment Bill 2016*

a) Matters already considered

As I indicated earlier, most of these matters were discussed fully in my previous submission. These include

- an abortion on a woman who is more than 24 weeks pregnant
- conscientious objection
- patient protection or 'safe zones'

I also commented on the evidence which dispels other dubious arguments against abortion, including the links with breast cancer and increased mental health problems. The over-whelming evidence from reliable, refereed and unbiased studies repudiates both these assertions

b) Only a Doctor may perform an abortion

This Bill provides guidelines for the health providers permitted to perform abortions - doctors and registered nurses acting under the guidance of a doctor. It provides surety that practitioners providing these services would be deemed as acting lawfully and therefore would be exempt from criminal prosecution. This would increase the potential for abortion being more readily available in public hospitals and in regional and rural areas.

c) A woman does not commit an offence by performing, consenting to or assisting in abortion on herself. The relevant clauses in this Bill protects a woman against prosecution in a situation similar to *R v Leach and Brennan*.

d) Options for Abortion Law

In the report relating to *Abortion Law (Women's Right to Choose) Amendment Bill*

2016, Part 3 Options for Abortion Law (p 77) the Committee provided 6 options for clarifying abortion law in Queensland.

Option 1: No change in the law

Adopting this option would ensure that women would still be denied their rights, as recognised by the United Nations and other bodies, to access to safe, legal abortions. Women in Queensland would continue to face discriminatory laws and be treated less fairly compared to women in other Australian states. As Queensland has a secular legal system, retaining laws based almost entirely on religious argument lacks democratic credibility.

Option 2: Amendment of the Criminal Code

Removal of section 225 would protect the women who procure their own abortion, but would not address other anomalies in the legislation.

Option 3: Further consideration by another body

There have been numerous studies regarding abortion law in Queensland, including the including the *Taskforce on Women and the Criminal Code in 2000*.

This taskforce, implemented by the government, resulted in an extremely comprehensive investigation by the Women's Policy Unit which recommended among a raft of legislative reform the removal of Sections 224, 225 and 226 (p 333). Unfortunately the recommendation was not taken up by the government of the day and women are still waiting for legal certainty sixteen years later.

Ref: Queensland Taskforce on Women and the Criminal Code (2000) Report of the Taskforce on Women and the Criminal Code, Brisbane

Option 4: Decriminalisation

The Committee's concerns regarding decriminalisation without implementing some legislative structures would be assuaged if the two Bills were considered, discussed and voted on simultaneously.

Option 5: Regulation of abortion in health legislation

In my previous submission I considered issues of conscientious objection; abortion after 24 weeks gestation and the impact of abortion on women's health and well being. The current legislation in Victoria presents a system that is well-considered and a suitable model for reform in Queensland.

Regarding conscientious objection, I would presume that practitioners would be required to make decisions which give primacy to women's lives ahead of their right of objection. Further, conscientious objectors have a duty of care to patients and should therefore be responsible for referring on of women seeking abortion. In the case of conscientious objectors it would also be ethical if their position was clearly indicated to prospective patients in the waiting room or on a medical register.

The implementation of safe or protected zones around any premise which offers abortion services to protect patients and staff from the excesses of anti-choice protesters should be mandatory. These areas need not be 'declared' but apply automatically to any action, and a workable zone would be 150 metres rather than 50 metres. (consistent with legislation in Victoria and Tasmania} These requirements would bring uniformity and consistency to legislation.

Objection 6: Abortion performed by person other than a medical practitioner a crime

One of the objectives in decriminalising abortion is to ensure that women have access to the care of qualified medical practitioners. This reflects prevailing community expectations.

Concluding Remarks:

- a) I have no doubt that the Committee is aware of the importance of their findings. Abortion is an extremely emotive decision, but currently it seems that the minority view prevails. By developing appropriate structures and making abortion a health issue, hopefully respect for the ethical integrity of women to make important decisions about their lives will be respected.
- b) I have personally been a researcher and advocate for women's rights for decades. Too frequently policy is formulated by (mainly) men with a limited understanding of women's perspectives. On many issues like abortion and domestic violence it is imperative that women's voices are heard and valued.
- c) Decriminalisation of abortion is supported by a diverse range of international

bodies like the United Nations and Amnesty; professional bodies like the Australian Centre for Health Law Research, Queensland Domestic Violence Service Network and the Australian and New Zealand College of Obstetricians and Gynaecologists; and women's groups like Children by Choice. ProChoice Queensland and women's refuges. The overwhelming opinion argued by these groups who work in the area of women's rights and service provision is that abortion is a health issue and should be removed from the criminal code.

d) There is an urgent need for women in Queensland to be afforded the same rights as other Australian women. Maintaining abortion in the criminal code, rather than as part of health policy continues the discrimination which exists in this state, and is particularly punitive to young girls; women in rural and regional areas; women from culturally and linguistically diverse groups; and women with limited socio-economic resources.

e) Retaining abortion in the criminal code is not a neutral political position: by default it supports the anti-abortion lobby. Affording women choice through clearly articulated health policy respects the rights of all women to reproductive autonomy and removes the onus of choice from the responsibility of the secular state.

I sincerely thank all the Members of the Committee, and their staff, for undertaking this challenging and emotive discussion in such a professional manner. I sincerely hope that after more than 100 years abortion is no longer considered a crime in Queensland.

Carole Ford OAM