



**Queensland Parliament**  
**Health (Abortion Law Reform) Amendment Bill 2016**

**The Health, Communities, Disability Services and Domestic and Family  
Violence Prevention Committee**  
**Submission 6 October 2016**

This is a submission to Queensland Parliament 'Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee' in regards to the *Health (Abortion Law Reform) Amendment Bill 2016*. The Private Members Bill was submitted by Rob Pyne MP on 17 August 2016.

**True Relationships and Reproductive Health**

True Relationships and Reproductive Health (True) is a non-profit organisation that provides expert reproductive and sexual healthcare. For over 40 years, True has been prominent in the delivery of clinical services and professional training for medical practitioners, teachers and sector professionals.

True has nine offices and five reproductive and sexual health clinics across Queensland. Clinics specialise in contraceptive choices including long acting reversible contraception (LARC). Clinical services include pregnancy planning, pre-conception care, pregnancy and postnatal care, menstruation concerns, menopause, cervical screening and sexual health screening.

True offers a wide range of workforce development solutions that are tailored for specific needs and groups. In 2015-2016 True provided professional development and adult education to over 21,500 people. True is a member of Family Planning Alliance Australia, the nation's peak body in reproductive and sexual health<sup>1</sup>.

**Executive Summary**

True offers in principle support to the proposed *Abortion Law Reform (Abortion Law Reform) Amendment Bill 2016*. True supports the *Health (Abortion Law Reform) Amendment Bill 2016* to be debated and passed alongside *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016*.

For legislation to be accessible and enforceable, health regulation can only occur with removal from the Criminal Code<sup>2</sup>. This will provide adequate protection to people working in clinical settings who provide abortion services<sup>3</sup>.

The regulation of late term abortion is not ideal<sup>4</sup>. Legislated conscientious objection clauses are supported and will be led in practice by relevant clinical guidelines<sup>5</sup>. The provision of 'safe zones' could be strengthened by learning

from legislation in Tasmania<sup>6</sup>. True recommends safe zoning be extended to 24 hours per day within a 200 metre radius.

**1. Only a doctor may perform an abortion: a person who is not a doctor (or a registered nurse administering a drug to perform an abortion under the direction of a doctor) would commit an offence.**

The Bill is consistent with World Health Organisation recommendations that: "Abortion services should be integrated into the health system, either as public services or through publicly funded, non-profit services, to acknowledge their status as legitimate health services and to protect against stigmatization and discrimination of women and health-care providers."<sup>7</sup>

Existing legal principles<sup>8</sup> that govern termination practices in Queensland fail to provide adequate protection to medical practitioners who provide abortion. If this Bill is passed, to omit sections 224, 225 and 226 of the *Criminal Code 1899* would provide clarity regarding the governance of abortion regulation.

**2. A woman does not commit an offence by performing, consenting to or assisting in an abortion on herself.**

The only two remaining jurisdictions where a woman can be charged for accessing an abortion are Queensland and New South Wales<sup>9</sup>. Queensland is the only state with a recent case where a woman has been charged for procuring an abortion<sup>10</sup>.

Section 20 could potentially protect a woman against allegations of illegal procurement, such as the Cairns case of *R v Leach and Brennan (2010)*. This protection is essential for women to safely access and administer of medical abortion<sup>11</sup>.

Criminal statutes in Queensland and New South Wales remain based on the *English Offences against the Person Act 1861*<sup>12</sup>. If this Bill is passed, to omit section 225 of the *Criminal Code 1899* would provide clarity regarding regulation of women seeking abortion.

**3. An abortion on a woman who is more than 24 weeks pregnant may be performed only if two doctors reasonably believe the continuation of the woman's pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated.**

This proposed legislation reflects approaches of the Victorian Government<sup>13</sup>. Legislation prescribing gestational limits is unnecessary. Clinical guidelines offer a more feasible approach based on clinical evidence of best practice<sup>14</sup>.

**4. Conscientious objection: no-one is under a duty to perform or assist in performing an abortion; however a doctor has a duty to perform an abortion if it is necessary to save a woman's life or prevent serious physical injury. Also, a registered nurse has a duty to assist in such circumstances.**

The proposed conscientious objection legislation is practical. Conscientious objection by any doctor should not hinder a woman's access to pregnancy options, including abortion<sup>15</sup>. Doctors who conscientiously object to abortion

should follow clinical guidelines and refer on to another practitioner who does not have objection<sup>16</sup>.

**5. Patient protection or ‘safe zones’: a protected zone of at least 50 metres must be declared around an abortion facility; certain behaviour, e.g. harassment and intimidation, is prohibited within a protected zone. Publishing images of a person entering, leaving or trying to enter or leave an abortion facility is prohibited.**

‘Safe zones’ provide a model of community safety for both patients and health practitioners that can define and police prohibited behaviour within a geographical zone<sup>17</sup>. Women should be able to access the service free from judgement, harassment, intimidation or harm. Clinicians who care for patients should be able to do so without fear of prosecution, retribution, harassment or threats.

Opportunities exist to strengthen regulation of ‘safe zones’. An stronger model for Queensland could be based upon the Tasmanian *Reproductive Health (Access to Terminations) Act 2013*<sup>18</sup>. The Act prohibits behaviour such as ‘besetting, harassing, intimidating, interfering with, threatening, hindering, obstructing or impeding a person’ within the exclusion zone defined as ‘an area within a radius of 150 metres from premises at which a termination is provided’<sup>19</sup>.

True would welcome a proposal for ‘safe zones’ in Queensland operational 24 hours a day, with a radius of 200 metres or greater.

<sup>1</sup> Family Planning Alliance Australia (2016), *Position Statement: Access to Abortion Services in Australia* available online at < <http://familyplanningallianceaustralia.org.au>>.

<sup>2</sup> De Costa, C., Douglas, H., Hamblin, J., Ramsay, P., and Shircore, M., (2015), ‘Abortion law across Australia- A review of nine jurisdictions,’ in *Australian and New Zealand Journal of Obstetrics and Gynaecology* 55: 015-111; and Kerr, K., (2014), ‘Queensland abortion laws: criminalising one in three women’, *Queensland University of Technology Law Review*, 14:2.

<sup>3</sup> Queensland Government (2016), *Criminal Code Act 1899*.

<sup>4</sup> Victorian Law Reform Commission (2008), *Law of Abortion : Final Report*, Victorian Government.

<sup>5</sup> The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) (2013), *Termination of Pregnancy College Statement (C-Gyn 17)*; The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) (2016), *Late Termination of Pregnancy (C-Gyn 17a)*; and The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) (2016), *Late of Pregnancy: A Resource for Professionals (C-Gyn 15)*.

<sup>6</sup> Tasmanian Government (2013), *Reproductive Health (Access to Terminations) Act 2013*, accessed online 20 June 2016 at <[http://www.thelaw.tas.gov.au/tocview/content.w3p;doc\\_id=72++2013+AT@EN+20150627000000;rec=0](http://www.thelaw.tas.gov.au/tocview/content.w3p;doc_id=72++2013+AT@EN+20150627000000;rec=0)>.

<sup>7</sup> World Health Organization, (2012). *Safe abortion: technical and policy guidance for health systems 2<sup>nd</sup> Edition*. World Health Organisation.

<sup>8</sup> Queensland Government (2016), *Criminal Code Act 1899*.

<sup>9</sup> De Costa, C., Douglas, H., Hamblin, J., Ramsay, P., and Shircore, M., (2015), ‘Abortion law across Australia- A review of nine jurisdictions,’ in *Australian and New Zealand Journal of Obstetrics and Gynaecology* 55: 015-111.

<sup>10</sup> Supreme Court Library Queensland (2016), ‘R v Leach and Brennan 2010 QDC10-329’ accessed online on 15 June 2016 at <<http://www.sclqld.org.au/caselaw/QDC/2010/329>>.

<sup>11</sup> Dr Marie (2016). ‘Abortion Advice & Services | Dr Marie’ accessed online on Sep 21 2016 <<https://www.drmarie.org.au/services/abortion/#medical>>.

<sup>12</sup> Kerr, K., (2014), ‘Queensland abortion laws: criminalising one in three women’, *Queensland University of Technology Law Review*, 14:2.

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<sup>13</sup> Victorian Law Reform Commission (2008), *Law of Abortion : Final Report*, Victorian Government.

<sup>14</sup> The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) (2013), *Termination of Pregnancy College Statement (C-Gyn 17)*; The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) (2016), *Late Termination of Pregnancy (C-Gyn 17a)*; and The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) (2016), *Late of Pregnancy: A Resource for Professionals (C-Gyn 15)*.

<sup>15</sup> Australian Medical Association (2013), 'Conscientious Objection – 2013', accessed online on 21 September 2016 at <<https://ama.com.au/position-statement/conscientious-objection-2013>>.

<sup>16</sup> Victorian Law Reform Commission (2008), *Law of Abortion : Final Report*, Victorian Government; and

Australian Medical Association (2013). *Conscientious Objection - 2013*. Accessed online 21 September 2016 <<https://ama.com.au/position-statement/conscientious-objection-2013>>.

<sup>17</sup> De Costa, C., Douglas, H., (2015), 'Abortion Law in Australia: it's time for national consistency and decriminalisation', in *The Medical Journal of Australia*, Issue 9 2015.

<sup>18</sup> Tasmanian Government (2013), *Reproductive Health (Access to Terminations) Act 2013*, accessed online 20 June 2016 at <[http://www.thelaw.tas.gov.au/tocview/content.w3p;doc\\_id=72++2013+AT@EN+20150627000000;rec=0](http://www.thelaw.tas.gov.au/tocview/content.w3p;doc_id=72++2013+AT@EN+20150627000000;rec=0)>.

<sup>19</sup> Tasmanian Government (2013), *Reproductive Health (Access to Terminations) Act 2013*, accessed online 20 June 2016 at <[http://www.thelaw.tas.gov.au/tocview/content.w3p;doc\\_id=72++2013+AT@EN+20150627000000;rec=0](http://www.thelaw.tas.gov.au/tocview/content.w3p;doc_id=72++2013+AT@EN+20150627000000;rec=0)>.