

Health and Other Legislation Amendment Bill (No. 2) 2023

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CHILDREN BY CHOICE
ASSOCIATION INCORPORATED

**Submission to
Inquiry into the
Health and Other
Legislation
Amendment Bill
(no. 2) 2023**

15 January 2024

Introduction

Children by Choice is pleased to make this submission to the Queensland Government into the Inquiry into the Health and Other Legislation Amendment Bill (no. 2) 2023. Children by Choice are happy to speak to this submission or attend further consultation.

About Children by Choice

Children by Choice is an independent Queensland-based non-profit organisation, committed to providing counselling, information, and education on all pregnancy options – abortion, adoption, kinship and alternative care and parenting. We are recognised nationally and internationally as a key advocacy group for reproductive and sexual health.

Our primary objective is to ensure that women and pregnant people who experience hardship or distress with a pregnancy receive high-quality decision-making counselling, evidence-based information, material aid, and referral. Children by Choice seeks to empower people and communities to exercise reproductive health choices, and to remove the discriminatory social, legal, clinical and policy barriers that women and pregnant people may face when seeking access to accurate information, support, and services for their reproductive choices.

Our work includes:

- Our **pregnancy options counselling service** which assists over 2500 women and pregnant people each year in Queensland through our funding from the Department of Justice and Attorney General.
- Our **education and community engagement team** who provide training and information to 1250 professionals and students each year.
- A Keeping Women Safe from Violence grant co-designing an interactive **contraceptive options tool with a lens on reproductive coercion and abuse**.
- A project co-designing **reproductive resources across the gender spectrum**.
- Adding to the evidence base on termination of pregnancy, including a **post-decriminalisation of termination research analysis of Queensland**.
- Our **Multicultural project**, co-designing digital, video, and print resources for 4 language groups on pregnancy options, contraception, and reproductive coercion.
- Our work co-designing **Easy English resources** to support women with intellectual and learning disabilities on their pregnancy options, contraception, parenting and reproductive coercion, in partnership with WWILD.

- Our 3-year project in Queensland on **Rural, Regional and Remote Abortion Access project** which supported access to abortion in marginalised areas, completed in 2021.
- The **Queensland Abortion and Contraception online map**, launched in 2021, aims to increase transparency and accessibility of abortion and contraception services to the public and those supporting people seeking services.
- The development of an **Australian position statement after Roe v Wade** with over 700 individuals and organisations signing on to voice their support for reproductive rights; calling upon state and territory Health Ministers to embed essential reproductive healthcare into our public health services.

We have continued to advocate for access to legal, safe, timely, compassionate healthcare and protections for reproductive rights in conjunction with supporting bodily autonomy and reproductive justice.

We are a member of the **Queensland Sexual Health Clinical Network termination of pregnancy working group** and are involved in collaborating on an action plan for Queensland Health provision of abortion in public and primary health settings with **Clinical Excellence Queensland**. In addition, we are **actively engaged across several relevant government and non-government agencies** to facilitate and coordinate appropriate and consistent responses to women affected by a range of gender-based safety, health, and wellbeing issues. This includes participation in committees and working groups, such as:

- Queensland Sexual Health Clinical Network - Termination of Pregnancy working group
- Women's Health Services Alliance of Queensland
- Ending Violence Against Women Queensland
- SPHERE Coalition for sexual and reproductive health
- Equality Rights Alliance
- Queensland Abortion and Contraception Community of practice
- QCOSS (Queensland Council of Social Service) Women's Equality and CEO Network
- True Culturally Responsive Health Advisory Group

Our vision is that people can freely and safely make their own reproductive and sexual health choices without barriers.

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Our **Annual Reports and Strategic Plan** are available on our website at www.childrenbychoice.org.au.

Executive Summary

Children by Choice is supportive of the Queensland Government's commitment to updating legislation that allows an increased range of health practitioners to provide termination of pregnancy care. We are also supportive of updating language in the legislation to align with non-gendered language of other legislation.

Increasing access to abortion is integral for delivering equitable and universal healthcare for all- recognising that abortion is healthcare.

Future-proofing any legislative amendments is important during this process, as such changes may remain relevant in healthcare delivery over many years in tandem with potential developments technology, evidence-based practice, and Therapeutic Goods Administration (TGA) guidelines and approvals for termination of pregnancy medication.

Changes to legislation must inspire changes to provision of care. It is pertinent that any proposed amendments need to be accompanied by consultation and collaboration with key stakeholder groups including healthcare providers, consumer groups, workforce and professional bodies, and people who access termination of pregnancy care in Queensland.

Implementation of legislation across primary, public, and private healthcare must be accompanied by information and resources, as well as mixed modes of education to ensure the best quality of care. Support for health professionals and consumers to know where to get accurate evidence-based and non-stigmatising information is essential when widening the scope of practitioners able to prescribe medication abortion, and thus, the success of the proposed legislative changes.

Children by Choice welcome this Inquiry and the opportunity to update the *Termination of Pregnancy Act 2018* and Criminal Code. We welcome the finalisation and publication of the Queensland Government Termination of Pregnancy Action Plan currently in development by Clinical Excellence Queensland. A plan which will map out short-, medium- and long-term actions needed to ensure equitable and increased access to compassionate abortion in Queensland, including actions, responsibilities, deliverables and resourcing needed, as well as how this will be reviewed for success.

Future models of care must eliminate barriers to termination of pregnancy care by developing public models of service provision, investing in workforce development, fully utilising the capacity of that workforce, and creating stronger connections between sexual and reproductive health and intimate partner violence services. Compassionate abortion care reduces stigma, feelings of grief and loss and increases health outcomes.

Children by Choice are also supportive of a change to the Hospital and Health Boards Act 2011 to clarify that, for the purposes of nurse- and midwife-to-patient ratios, a newborn baby should be counted as a patient when they are staying in a room on a maternity ward with their birthing parent.

Amending the Termination of Pregnancy Act 2018 and Criminal Code

Allowing additional health practitioners to perform an early medical termination of pregnancy through the use of a registered drug.

Children by Choice are supportive of registered health practitioners other than medical practitioners performing medical terminations of pregnancy using a registered termination of pregnancy drug. We are supportive of nurse practitioners, registered nurses, endorsed midwives and midwives prescribing, being permitted to give a treatment dose of, and administering, a registered termination of pregnancy drug. The World Health Organization *Abortion Care Guideline* recommendation 28 [1] states a broad range of health practitioners are suitable for the service delivery of medical management of abortion under 12 weeks gestation.

Approximately one in three Australian people with a uterus with an unintended pregnancy will have an abortion, and yet significant barriers remain to ensure the delivery of equitable and timely medication abortion services. These barriers include, but are not limited to, a lack of trained providers, high out-of-pocket costs, abortion stigma, conscientious objection, and large geographical distance to services. Unintended pregnancies have been correlated with a range of negative physical, mental, economic, and social outcomes, and when termination services are sought by an individual who is denied access, they are “more likely to experience ill health, psychological stress, poverty, and negative impacts on development of existing children.” [2]

In Australia, access to abortion care in rural, regional, and remote settings is a challenge. Nurses, particularly nurse practitioners and registered midwives, are skilled at providing a range of vital services, and abortion care should not be the exception. Queensland’s health system is built on continuous innovation, such as the early adoption of telehealth models, so potential new models of healthcare would represent another step towards universal access.

The Australian Government has committed to increasing access and equity in abortion care. The *Australian Government Women's Health Strategy 2020–2030* priority area 1 includes “[increased] access to sexual and reproductive health care information, diagnosis, treatment and services.” [3] A key measure of success is “equitable access to pregnancy termination services.” [3] The proposed legislative change brings Queensland closer to achieving this national priority.

The Queensland Sexual Health Framework priority actions include: improving community awareness and information for all Queenslanders across their lifespans; prevention and early education; supporting the needs of priority population groups; and improving the service system. [4] This legislative change and its implementation should be considered in conjunction with this framework. The proposed legislative change meets these priority areas, and the implementation should consider this framework.

Children by Choice supported 2632 clients in Queensland within the 2022–23 financial year. [5] Of those clients, 81% contacted the organisation within the first trimester of pregnancy. [5] Any delays to accessing termination of pregnancy medication before 9 weeks’ gestation results in abortion seekers needing to find surgical options and potentially travel large distances to access care. [6] Delays in the current reproductive health landscape can often be attributed—directly or indirectly—to service failures within systems of care, and rarely the result of abortion seekers accessing care in the second or third trimester. [6]

Clients contacting Children by Choice from regional, rural and remote Queensland seeking pregnancy decision-making support and abortion access, when compared with those in metropolitan areas, required more contact with our counsellors, needed greater financial support, were more likely to report domestic violence (38% vs 32%) and sexual assault (17% vs 13%), and travelled more than five times the distance (205km vs 41km each way) to access abortion services (CbyC client data, 2017).

Recent evidence indicates that there are shifting attitudes in Australia towards nurse and midwifery leadership in abortion care. [7] Research points specifically to legislative and policy barriers that act as a hurdle in moving beyond task-based roles to comprehensive care. Findings highlight the value of nurses and midwives’ skills, knowledge, and potential in extending the scope of abortion care, particularly in supporting trauma-informed care pathways. [8]

A 2022 questionnaire distributed to registered midwives and sexual health nurses in Queensland showed that 53.5% reported they would support the provision of abortion in any situation at all; while only 7.4% held views based on religion or conscience that would make them completely opposed to abortion. [9] There were 92.9% who felt that education surrounding abortion should be part of the core curriculum for midwifery and/or nursing students in Australia. [9]

Children by Choice does not support including a gestational limit within legislation for termination medication prescriptions. This is in line with other jurisdictions in Australia who do not specify any gestational limit for termination of pregnancy using a registered termination of pregnancy drug. Gestational limits for termination of pregnancy drugs are determined by the Therapeutic Goods Administration (TGA). Internationally, medication used in early medical abortion is viable up until 12 weeks' gestation in primary care, and in some cases, beyond this limit. The World Health Organization Clinical practice handbook for quality abortion care 2023 [10] details the suitability of self-management for medical abortion before 12 weeks' gestation. Currently, the TGA has only approved the use of termination of pregnancy drugs for self-management of abortion to 9 weeks (63 days) gestation. [11]

Future-proofing the proposed legislative amendment to allow for decriminalised use of prescription and dispensing of a registered termination of pregnancy drug is recommended to ensure the legislation does not become outdated in an event where TGA approvals change.

Replace references to 'woman' with 'person' in termination of pregnancy provisions to ensure legal access to termination of pregnancy services for all pregnant Queenslanders.

Children by Choice hold no concerns with adopting inclusive and neutral language in the Termination of Pregnancy Act 2018 and the offence provision in the Criminal Code.

This change would align with termination of pregnancy legislation in the Australian Capital Territory from 1993 [12], New South Wales from 2018 [13] and 2019 [14], South Australia from 2021 [15] and 2022 [16], and Western Australia from 2023 [17].

This change would also align with other recent Queensland legislation which removes unnecessary gendering to ensure documents and public information is provided to meet the needs of groups requiring easy English and plain language.

An example is the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023*. [18] While coercive control and domestic and family violence are recognised as a gendered issue, the legislation is not gendered or sexed.

The ACT government updated all legislation to be gender-inclusive in 2022, with the Attorney-General stating, "the use of personal pronouns in the masculine or feminine are simply no longer appropriate in our legislation." [19]

Children by Choice understands the Queensland Government has a Women and Girls Health Strategy in development. [20] We recognise the importance of this strategy, and endorse this strategy as being an appropriate place for government deliverables on termination of pregnancy access. As mentioned in the Children by Choice submission on the Strategy [21], we believe a focus area should include a gender-informed workforce and understanding the need for sexual and reproductive health literacy, access and information for trans and gender diverse people.

Children by Choice has analysed our client data and found no potential risk in implementing the proposed gender-inclusive changes from a consumer perspective. Gendered language in legislation is not consistently a concern to our clients and is not a theme present in recorded case notes or counselling sessions.

Greater concerns to abortion seekers are attributed to low availability of free or low-cost options within Hospital and Health Services and primary care, the absence of timely and compassionate termination services, and the confusing pathways within public hospitals where unclear information creates barriers and delay of care.

Additional considerations.

Children by Choice conducted a content analysis of client records to understand the facilitators and barriers of accessing termination of pregnancy in Queensland post-decriminalisation. [22] This research found that the key reasons for contact to the service were for financial assistance, information on termination of pregnancy, and support for pregnancy decision-making. Facilitators and barriers affecting abortion access included affordability, violence, stigma, knowledge and information. These barriers continue to impede access to safe, compassionate, and timely abortion care. [22]

Following decriminalisation of abortion in 2018 with the Termination of Pregnancy Act 2018 and Changes to the Criminal Code, there was a focus on ensuring all Health and Hospital Services had pathways to termination of pregnancy access across Queensland. While experiencing the challenges above, Children by Choice have noted an improvement in access in the five years post-decriminalisation with notable improvements, including the introduction of Nurse Navigators for termination of pregnancy in HHS. Ensuring HHS are working alongside Sexual Health Clinics, primary and private care providers of termination of pregnancy services is vital.

Consideration to ensure free public provision of all termination of pregnancy care across Queensland is vital to addressing financial barriers faced by some abortion seekers and reducing common delays to care. This includes the cost of medical appointments, ultrasounds, medication, travel, and childcare.

Ensuring any termination of pregnancy service is available to provide support, counselling, and information pre- and post- abortion to people seeking care is essential. This care could be provided by health practitioners, as well as organisations funded by the Queensland Government to provide this service, such as Children by Choice.

Resources for health professionals

Children by Choice recommend additional considerations on the provision and availability of education, information, training, messaging, resourcing and clinical guidelines for health practitioners in the private/not-for-profit sectors and primary care sectors.

We recommend the Queensland Government continue and expand the support for the existing Queensland Community of Practice for abortion and contraception providers and welcome new public, primary and private providers as a place for knowledge-sharing, discussion, and best practice.

Children by Choice suggest the development of educational resources such as a FAQ document for consumers and prescribers, a reproductive coercion and abuse screening tool, clinical guidelines on medical management of abortion under 9 weeks (63 days), support, and follow up. We also recommend ensuring 13Health is equipped to handle aftercare questions and phone calls with a trauma-informed lens of practice.

There are many areas of consideration for the implementation of this legislative change and a variety of stakeholders who need to be involved in this implementation consultation. This includes primary, public, and private healthcare providers and institutions, rural, regional and remote practitioners, and consumers of termination of pregnancy services.

Resources for consumers

Resources such as the Children by Choice Abortion and Contraception Map of Queensland assist in supporting abortion seekers and health professionals to find appropriate care as close to home as possible. Legislative change expanding the scope of who can provide care would hope to result in increased number of providers on the Map. This would contribute to positive health outcomes and stigma reduction, as well as allow people to access timely care.

Transparent information available for consumers of abortion care is important to reduce risk and ensure mechanisms for access to aftercare, information, and methods of reporting poor care or injustice within the health system. Currently, navigating public systems as a consumer is often confusing and not without barriers to access, disadvantaging priority populations.

Conscientious Objection

Children by Choice does not support the provision of conscientious objection (CO) in legislation. However, it can be understood that the intention of CO in legislation exists to balance the rights and choice of the health practitioner and the healthcare seeker. While this legislation change does not invite any changes to the conscientious objection clause, it must be noted that this ability to object has greater impacts on the abortion seeker and has been shown to directly increase barriers and delays.

Some health practitioners do not comply with their obligations under the conscientious objection clause of the legislation [23], creating adverse effects on access to care. To ensure equity in accessing termination of pregnancy care with consistency, transparency, and enforceable regulation of conscientious objection is necessary to hold health practitioners and services accountable for abortion care delays and denial. Health services receiving public funding should not have the institutional right to conscientious objection and must provide compassionate abortion care as a public good.

Reproductive Coercion and Abuse

Deficiencies in practitioner attitudes, education and training are repeatedly raised in research as an immense non-legal barrier for pregnant people. Pregnancy promoting behaviors by professionals is a form of reproductive coercion, which is an under-researched and often under-reported barrier to pregnant people seeking abortion services. Pregnant individuals encounter reproductive coercion and abuse from their partners and extended families as well, who force or manipulate the person into either getting an abortion or continuing the pregnancy. [24] The Australian Institute of Family Services has observed “a strong correlation in the research between unintended pregnancy and domestic and family violence” and referenced research where “women described various ways in which abusive partners had controlled their reproductive and sexual choices including sabotaging their contraception; refusing to use contraception; rape; and attempting to influence the outcome of pregnancies.” [25]

Reproductive coercion and abuse are impacting individual's access to contraception, abortion and supported pregnancy. This should be a focus of the government to address as part of its commitment to reduce violence against women, while recognising its impact on all pregnant people.

Conclusion

Children by Choice welcome this legislative change as a necessary step toward more equitable and compassionate access to abortion in Queensland, however, recognises that successful implementation of this legislation will require commitment from Queensland Health and the Queensland Government.

Consultative implementation is key to the success of the safe implementation of the legislative changes. Ensuring the services needed to support practitioners and consumers to provide and expect safe care are available and appropriately resourced is vital.

References

- [1] World Health Organization. (2022). Abortion care guideline. *World Health Organization*. <https://iris.who.int/handle/10665/349316>.
- [2] Family Planning Alliance Australia. (2023). Submission 63 Senate Inquiry into universal access to reproductive healthcare 2023. *Australian Parliament House*. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/ReproductiveHealthcare/Submissions.
- [3] Australian Government Department of Health. (2019). National Women's Health Strategy 2020-2030. https://www.health.gov.au/sites/default/files/documents/2021/05/national-women-s-health-strategy-2020-2030_0.pdf.
- [4] Queensland Health. (2022). *Queensland Sexual Health Framework*. Queensland Government. https://www.health.qld.gov.au/___data/assets/pdf_file/0026/1150694/queensland-sexual-health-framework.pdf.
- [5] Children by Choice. (2023). Annual Report 2022-23. Children by Choice Association Incorporated. https://www.childrenbychoice.org.au/wp-content/uploads/2023/11/Annual-Report-2022-2023_Final_wFinancials.pdf.
- [6] Vallury KD, Kelleher D, Mohd Soffi AS, Mogharbel C & Makleff S. (2023). Systemic delays to abortion access undermine the health and rights of abortion seekers across Australia. *Aust N Z J Obstet Gynaecol*, 63: 612-615. <https://doi.org/10.1111/ajo.13716>.
- [7] Mainey L, O'Mullan C, Reid-Searl K, Taylor A & Baird K. (2020). The role of nurses and midwives in the provision of abortion care: A scoping review. *Journal of Clinical Nursing*, 29(9-10), 1513-1526. doi: 10.1111/jocn.15218.
- [8] Mainey L, O'Mullan C, Reid-Searl K. (2022). Unfit for purpose: A situational analysis of abortion care and gender-based violence. *Collegian*, 29(50). doi:10.1016/j.colegn.2022.01.003.
- [9] Desai A, Maier B, James-McAlpine J, Prentice D & de Costa C. (2022). Views and practice of abortion among Queensland midwives and sexual health nurses. *Aust N Z J Obstet Gynaecol*, 62(2), 219-225. doi: 10.1111/ajo.13489.

References

[10] World Health Organization. (2023). Clinical practice handbook for quality abortion care. *World Health Organization*. <https://iris.who.int/handle/10665/369488>.

[11] Therapeutic Goods Administration. (2023, July 11). *Amendments to restrictions for prescribing of MS-2 Step (Mifepristone and Misoprostol)* [Press release]. <https://www.tga.gov.au/news/media-releases/amendments-restrictions-prescribing-ms-2-step-mifepristone-and-misoprostol#:~:text=MS%2D2%20Step%20is%20indicated,to%2063%20days%20of%20gestation>.

[12] *Health Act 1993* (ACT) div. 6.1. <https://www.legislation.act.gov.au/View/a/1993-13/current/html/1993-13.html>.

[13] *Abortion Law Reform Act 2019* (NSW). <https://legislation.nsw.gov.au/view/html/inforce/current/act-2019-011#statusinformation>.

[14] *Public Health Amendment (Safe Access to Reproductive Health Clinics) Act 2018 No 26* (NSW). <https://legislation.nsw.gov.au/view/pdf/asmade/act-2018-26>.

[15] *Termination of Pregnancy Act 2021* (SA). https://www.legislation.sa.gov.au/legislation/lz/v/a/2021/termination%20of%20pregnancy%20act%202021_7/2021.7.un.pdf.

[16] *Termination of Pregnancy Regulations 2022* (SA). https://www.legislation.sa.gov.au/legislation/lz/v/r/2022/termination%20of%20pregnancy%20regulations%202022_47/2022.47.un.pdf.

[17] *Abortion Legislation Reform Bill 2023* (WA). [https://www.parliament.wa.gov.au/Parliament/Bills.nsf/9D7ECED888BE9ED3482589D4001FA98A/\\$File/Bill%2B120-1.002.pdf](https://www.parliament.wa.gov.au/Parliament/Bills.nsf/9D7ECED888BE9ED3482589D4001FA98A/$File/Bill%2B120-1.002.pdf).

[18] *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Act 2023* (Qld). <https://www.legislation.qld.gov.au/view/whole/html/asmade/act-2023-001>.

References

- [19] ACT Government. (2022, June 2). Gender-neutral language in our laws. [Press release].
https://www.cmtedd.act.gov.au/open_government/inform/act_government_media_releases/rattenbury/2022/gender-neutral-language-in-our-laws.
- [20] Queensland Health. (2023, September 14). Queensland Women and Girls' Health Strategy. Queensland Government. <https://www.health.qld.gov.au/system-governance/strategic-direction/plans/womens-health-strategy>.
- [21] Children by Choice. (2023). Queensland Women's Health Strategy. Children by Choice Association Incorporated. <https://www.childrenbychoice.org.au/wp-content/uploads/2023/03/Womens-Health-Strategy-report-2023.pdf>.
- [22] Cleetus M, Lazarou M, Tooker S, Jenkinson B & Dean JA. (2022). Termination of pregnancy in Queensland post-decriminalisation: a content analysis of client records from an all-options pregnancy counselling organisation. *Sexual Health* 19(6) 491-500. <https://doi.org/10.1071/SH22059>.
- [23] Keogh LA, Gillam L, Bismark M, McNamee K, Webster A, Bayly C, et al. (2019). Conscientious objection to abortion, the law and its implementation in Victoria, Australia: Perspectives of abortion service providers. *BMC Med Ethics* 20(11). <https://doi.org/10.1186/s12910-019-0346-1>.
- [24] Sheeran N, Vallury K, Sharman LS, Corbin B, Douglas H, Bernardino B, et al. (2022). Reproductive coercion and abuse among pregnancy counselling clients in Australia: trends and directions. *Reproductive health* 19(1), 1-170. <https://doi.org/10.1186/s12978-022-01479-7>.
- [25] Campo M. (2015). Domestic and family violence in pregnancy and early parenthood. Child Family Community Australia; Australian Institute of Family Studies. https://aifs.gov.au/sites/default/files/publication-documents/cfca-resource-dv-pregnancy_0.pdf.