




Speech By
Hon. Dr Steven Miles
MEMBER FOR MURRUMBA

Record of Proceedings, 16 October 2018

TERMINATION OF PREGNANCY BILL

Second Reading

 **Hon. SJ MILES** (Murrumba—ALP) (Minister for Health and Minister for Ambulance Services) (11.20 am): I move—

That the bill be now read a second time.

Queensland is one of only two jurisdictions in Australia that has not amended our laws to recognise that termination of pregnancy is an important health issue. For too long the possibility of criminal prosecution under Queensland law has stopped health professionals from providing a full range of safe, accessible and timely reproductive services. For too long our laws have stopped women from accessing important health care because they live too far away from a city centre or because it is too expensive. For too long our laws have stigmatised doctors and nurses for doing their jobs and women for demanding reproductive choices.

What our laws do not do is prevent terminations. No law ever has. In every country at every point in recorded human history, women have terminated their pregnancies. In places where it is illegal they have faced persecution, botched surgical procedures, jail time. Many women have died, but laws have never stopped terminations because the right to control our own bodies is so fundamental. It is fundamental for men and women, but there are no laws that police men's bodies in this way.

To say that I am against abortion is to say that I believe in forcing a woman to stay pregnant. It is to say that you do not think that a woman's body and life belong to her. It is to say that you know better than she does. Now, I know that as a man I cannot speak for a woman. I do not know better than they do what is right for them. I can say that I believe her though. I can say that I believe women. I believe any woman who says that she is not ready to have children yet. I believe any woman who says that she cannot afford children or cannot manage any more children than she already has or who does not want to have a child with her violent partner. I believe and support any woman who does not want kids because it is not my place to say that I know better, and it is not the place of anyone in this House. But it is my place to stand up for Queensland's health professionals.

As health minister, I meet doctors and nurses every day. They work hard to take care of Queenslanders when we need it most, but only one group of these medical professionals has to do their work in a legal grey area even though their work is no different from any other health professional, which is simply providing the best possible care to their patients. In preparing to debate this bill I spent some time at a Marie Stopes clinic. I went to meet the people who work there and hear firsthand what it is like. I sat in the lunchroom and talked to whomever had a spare moment.

During my visit more and more staff piled into the break room to tell me their stories. I heard heartbreaking accounts of what it is like to do their job. I heard how protesters hound them from their cars to the clinic; how they yell abuse and wave props in their faces and take photos of them without their permission; how protesters upset patients so much that comforting them when they walk through the door has become a standard part of their job.

One 19-year-old nurse told me about how, when the protesters got really bad, she would have to escort women into the clinic—a 19-year-old nurse—and how this scared away women who were not just seeking terminations but also women visiting the clinic for other sexual health services like STI checks and contraception. She spoke about doctors who were too scared to come to work some days. No-one deserves to be harassed and abused just for going to work, especially not when their job is to provide important health care that women need. Our doctors and nurses deserve better than this.

The Termination of Pregnancy Bill 2018 will remove the fear, the stigma and the uncertainty caused by Queensland's current laws. It will provide a clear framework about the circumstances in which a termination is lawfully provided, and it will ensure that termination of pregnancy is dealt with as a health issue to be considered between a woman and her doctor.

One of the things that has struck me about this debate is the lengths that those who oppose terminations will go to to deceive women. I have heard recordings of unqualified counsellors telling women that abortions cause breast cancer or that they will impact permanently on their fertility. I have been appalled by the wilful provision of misinformation to women who are making this important decision. That is why as part of a comprehensive implementation plan Queensland Health will set up an unbiased hotline where anyone can get all the information they need about their options when pregnant as well as referrals to doctors, clinics, and, if they wish, impartial therapeutic counselling services run by qualified counsellors. We will no doubt hear some of these misleading claims in the House this week. Some members will try to mislead the House this week, as they have before, so before we start what could be a long debate let us get some of the facts on the record.

This bill will not increase the number of late-term abortions. It will not lead to sex-selective abortions. It will not allow women to terminate their pregnancies up until birth, as has been claimed. Women will not start using abortion as their preferred method of contraception. Here are the facts: 99 per cent of terminations happen well before 20 weeks, with the overwhelming majority before 12 weeks. Terminations after 22 weeks usually involve complex medical circumstances such as the delayed diagnosis of serious or fatal abnormalities or serious and complex maternal illness.

A woman facing a late-term termination usually wants her pregnancy, but her doctor has said that her foetus will not survive because its heart or brain will not work or her doctor has discovered that she has cancer and needs to start treatment immediately. We all wish these things did not happen, but they do. These kinds of severe foetal abnormalities are often diagnosed around 20 weeks. If we were to set a term limit below 22 weeks we would deny a woman—especially a regional woman—the chance to properly consider her options after the 20-week scan. We would force her to rush a heart-wrenching decision. We would be making a law to make her stay pregnant for another 20-odd weeks knowing that the foetus would not live.

Twenty-two weeks was not arbitrarily chosen. The QLRC did detailed research and consultation, and this is the recommendation that came out of that process. Politicians trying to pick another gestational limit on the run—20 weeks, 18 weeks, 16 weeks—would forgo all of that consideration. In fact, to choose 16 weeks, as proposed by the member for Caloundra, could roll back the rights Queensland women have right now under the common law. If accepted, the amendment proposed by the member for Caloundra would deliver some of the most restrictive abortion laws in the country. Any change to the gestational limit ignores the independent evidence based work of the QLRC and would lead to less time for informed decision-making for women. After 22 weeks a second doctor would need to agree with the treating doctor that a termination is the right course of action. Adding the unnecessary requirement for that doctor to physically see the patient would delay treatment for women in regional and remote areas.

I meet with doctors every day. If anyone here thinks that they do not take their work and their profession seriously and would for any reason wave through unsafe or unnecessary terminations post 22 weeks, they are wrong. No doctor does this lightly.

Maternal foetal medicine specialist and obstetrician Dr Carol Portmann says that in over 20 years she has only done terminations post 22 weeks where the foetus will not survive or the woman's life is at risk. Even if members believe in forcing women to stay pregnant against their will, will they go so far as to say they should be forced to carry a nonviable pregnancy or put their own life at risk?

A conscientious objection provision is included in the bill in recognition of the fact that health practitioners have and may exercise the rights of freedom of thought, conscience and religion. To balance the rights of the practitioner, the bill requires that, where a person asks a registered health practitioner to perform or advise about a termination, an objecting practitioner must disclose their conscientious objection. The practitioner must also refer or transfer the woman's care to another medical practitioner who can provide the requested service and does not have a conscientious objection. I note that the member for Caloundra has also proposed deleting these provisions.

We have heard what happens when doctors do not refer. The committee heard in Cairns of a senior gynaecologist who was approached by a registrar about a girl in the emergency department who had been raped and was requesting a termination. The registrar said, 'I don't know what to do. I'm new to Cairns. What happens?' The consultant said, 'Tell her abortions are illegal in Queensland.' That girl walked straight out of the emergency department in front of a car.

Doctors' jobs are to care for patients. Most of our doctors want to do exactly that. Practitioners with a conscientious objection will be able to simply refer women to the new Queensland Health women's health hotline that I have announced today. This ensures they can easily meet their responsibilities to refer women seeking a termination and know that they have taken all necessary steps under the new laws. The hotline will be an especially valuable resource for practitioners and women in remote and regional areas, where specialist services may not be available. The Australian Medical Association considers these provisions consistent with the existing codes of conduct and guidelines for doctors. Why is the member for Caloundra ignoring the evidence he heard himself at the committee hearings and the submissions of the AMAQ?

The provision also accords with the Queensland Clinical Guidelines. These guidelines will be reviewed and refreshed as part of that extensive implementation plan. If this bill is passed, the implementation plan will make sure that doctors know their rights and obligations and that patients will have plenty of information to help them with their decision-making. These materials will include information about counselling services should the woman wish to receive counselling. This is already in the current clinical guideline—counselling if required to inform decision-making and consent, counselling if required prior to termination, counselling if required after termination. The clinical guideline recommends for counselling to be offered not once but three times. For the benefit of members I table a copy of those guidelines.

Tabled paper: Document, undated, titled 'Queensland Clinical Guidelines—translating evidence into best practice—Maternity and Neonatal Clinical Guideline—Therapeutic termination of pregnancy' [[1642](#)].

Making counselling mandatory would imply that there is something inherently traumatic about terminations, and that is simply untrue. There is no other law in Queensland that requires counselling for any other procedure. The decision of the state to mandate a treatment for any citizen should not be taken lightly by members in this place.

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee has undertaken extensive public consultation, travelling between Brisbane, Cairns and Townsville to hear from people across the state. They did a fantastic job. I put on the record my thanks to the chair, the member for Thuringowa, the committee members and the member for Pine Rivers, who also participated in the hearings.

When you take into account the two parliamentary inquiries last term, the QLRC consultations and report and now this comprehensive committee process and report, this could well be the most considered issue in the recent history of our parliament. I want to acknowledge the Leader of the House, who managed this issue through the last parliament and successfully guided this bill to its introduction. I know how passionate she is to see it passed—as Minister for Justice, as a woman and as a mother.

The first recommendation of the committee was that the bill be passed. The second recommendation was that members be allowed a conscience vote on the bill. I am pleased that the LNP has accepted the second recommendation and allowed its members a conscience vote. I was disappointed that LNP members of the committee felt the need to submit a statement of reservations. Their statement just said that they still had questions. They still had questions after the parliament and committee have been discussing this matter for years. Brave women travelled across the state to tell them their stories and answer their questions. Doctors, nurses and health professionals came to give their best advice based on their medical knowledge and experience—not once but four times: three parliamentary inquiries and a detailed inquiry by the Queensland Law Reform Commission.

The bill implements the recommendations of the QLRC's June 2018 report, *Review of termination of pregnancy laws*. The report is a comprehensive review into modernising and clarifying Queensland's termination of pregnancy laws following an extensive and independent examination by the QLRC. It recognised that safe termination of pregnancy is not a criminal matter. Instead, termination of pregnancy is an important health choice to be made privately, in consultation with a health practitioner.

The bill gives effect to the recommendations of the QLRC by amending the Criminal Code and creating a new legislative framework for the conduct of terminations by registered health practitioners and associated measures to ensure reasonable and safe access by women to terminations.

The bill repeals sections 224, 225 and 226 of the Criminal Code which criminalised terminations. It repeals sections of the law that were written before women could vote and that sit alongside offences such as being gay, defaming a foreign prince, challenging someone to a duel or helping pirates. That archaic law says—

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.

In this bill new offences will be created directed to stop unregulated or backyard terminations. They will carry a maximum penalty of seven years imprisonment. These offences protect the health, safety and wellbeing of women.

The bill also amends section 282 of the Criminal Code, which is a defence for surgical operations and medical treatment, and section 313(1) of the Criminal Code, which is an offence related to killing an unborn child. The bill provides that a registered medical practitioner may perform a lawful termination on request up to a gestational limit of 22 weeks. This bill also provides that certain registered health practitioners, including a medical practitioner, nurse, midwife, pharmacist or Aboriginal and Torres Strait Islander health practitioner, may assist a medical practitioner to perform a lawful termination.

The bill ensures that a woman who consents to or assists in or performs a termination on herself is not committing an offence. This provides certainty for the woman and aligns with the bill's overall objectives, to ensure women's access to safe and lawful termination is treated as a health issue.

The bill provides for safe access zones around premises that provide termination services. The purpose of a safe access zone is to protect the safety and wellbeing and respect the privacy and dignity of women, staff and others who need to access services or the premises. The bill makes it an offence to engage in prohibited conduct at any time in the safe access zone and to make, publish or distribute a restricted recording of persons in or near termination services. The maximum penalty for these new offences is a fine of 20 penalty units or one year imprisonment. Every woman has a right to access healthcare services without interference and with privacy and dignity.

The QLRC carefully considered these issues in formulating its recommendations, to which the bill gives effect. The bill will provide for a range of consequential amendments to other legislation in order to properly implement the new laws. This includes the Guardianship and Administration Act 2000, the Police Powers and Responsibilities Act 2000, the Evidence Act 1977, the Penalties and Sentences Act 1992 and the Transport Operations (Road Use Management) Act 1995.

The changes to Queensland's termination of pregnancy laws have been subject to extensive consultation. The QLRC conducted a detailed and wideranging 12-month inquiry to inform its report. This included considering 1,200 submissions on its consultation paper from a diverse range of stakeholders. The committee then considered over 6,000 submissions on the bill as part of its inquiry. Key stakeholder organisations and peak bodies participated in the consultation process. I thank all stakeholders for their participation in the committee's inquiry.

The committee heard from many brave women who had experienced the heartbreaking decision to terminate a wanted pregnancy. Women like Zena Mason shared her experience of being informed at 22-weeks pregnant that her unborn child had a life-limiting disease. Zena described the trauma of needing a termination, which was further compounded by learning that termination is an offence under the Criminal Code. Terminating a wanted pregnancy will always be a heartbreaking experience for a woman and her family. We cannot change that, but we can help to make the experience less difficult by removing the stigma that comes from termination being a criminal offence. We can ensure this is a healthcare decision to be made by a woman in consultation with her doctors.

If any member wants more information—unbiased advice from a medical professional—it is not too late. If in considering their position they have further questions this week, I ask them to please contact Queensland Health and organise a briefing, as I have offered in my correspondence to them.

This bill will at last bring Queensland's termination of pregnancy laws into the 21st century. For this reason it is critical the people of Queensland and the members of this House understand the choices we are being asked to make when voting on this bill. A vote for this bill is a vote to reform archaic laws in favour of legislation that is clear and treats a Queensland woman with the dignity and respect already afforded to women in other states. A vote against this bill, though, will not prevent terminations occurring in Queensland. The current legislative framework already permits terminations and will continue if this bill is not enacted.

As the committee heard, rates of termination will not change if this bill is passed. In fact, in Victoria since decriminalisation, the number of terminations has decreased significantly. What will change is the environment in which Queensland women make the often difficult choice to seek a termination. A vote for this bill will create an environment in which women are less likely to be stigmatised, an environment in which medical practitioners are more likely to understand their legal rights and to act with certainty, an environment in which practitioners who conscientiously object to performing a termination have a clear legal right to do so but, importantly, are obligated to ensure their patients still receive the medical advice and treatment they are seeking.

A vote against this bill is not a vote to ban the termination of pregnancy in Queensland. That is not a choice offered in this debate. Members who choose to vote against this bill should do so knowing they are voting to continue a legal framework that is no longer fit for purpose, a framework that stigmatises Queensland women in a way that legislation in most other jurisdictions does not. If members vote against this bill, they should know that they are voting in favour of laws that disproportionately harm women living in rural and remote areas and women affected by physical and sexual violence. History will record that they voted against legislation designed to ensure Queensland women have reasonable and safe access to reproductive health care in favour of continuing Criminal Code provisions that are archaic, cruel and degrading.

This bill was developed based on recommendations of the Queensland Law Reform Commission following extensive consultation and informed consideration. It offers us the opportunity to enact legislation that unequivocally demonstrates Queensland is a modern state—one that understands the importance of addressing health issues, including termination of pregnancy, free from stigma and, most importantly, a state that treats women with care and with dignity; a state that believes women and believes they are best placed to make decisions about their bodies and their health care. I commend the bill to the House.