

Queensland Family and Child Commission

Submission

To: Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

Date: 16 September 2016

Topic: Health (Abortion Law Reform) Amendment Bill 2016

Submission summary:

This submission aims to provide the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) with information and advice to inform consideration of the Health (Abortion Law Reform) Amendment Bill 2016.

The Queensland Family and Child Commission strongly encourages the Committee to progress to a full and comprehensive review of the laws governing termination of pregnancy in Queensland.

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Submission contact:

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The Queensland Family and Child Commission (QFCC) is pleased to provide a submission to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) inquiry into the Health (Abortion Law Reform) Bill 2016.

Recommendation

The QFCC recommends:

a full inquiry into reforming the laws governing termination of pregnancy in Queensland, to be undertaken by the Queensland Law Reform Commission.

In Queensland, at present, abortion is a criminal offence for the woman undergoing the abortion, the person performing the abortion and anyone knowingly supplying medication, drugs or implements for an abortion.¹

The QFCC believes all Australian women should be able to access safe abortions. This access should not depend on where a woman lives. However, at present the law in Queensland is not consistent with other jurisdictions across Australia. Queensland and New South Wales² are the only jurisdictions in Australia where abortion remains a crime.

Due to the complex and contentious nature of this issue, the QFCC continues to strongly encourage the Committee to consider a full inquiry into reforming the laws governing termination of pregnancy in Queensland. This will allow full and meaningful consultation with medical professionals, health services and the wider community.

The QFCC notes that this Bill provides clarification around gestational periods and conscientious objection, but still believes a full inquiry would be best to support clear and comprehensive reform similar to the inquiry model adopted in Victoria.

Best practice: Victoria's reform of abortion laws

In September 2007, the Victorian Government provided terms of reference to the Victorian Law Reform Commission (VLRC) seeking legislative advice to reform abortion laws. The referral was made following a Private Member's Bill.³ The VLRC conducted stakeholder consultation with 36 groups and individuals and convened a panel of experts to provide advice on clinical practice.⁴ A final report was tabled in Parliament in May 2008, and a reform Bill was passed in October 2008. The Victorian case has since been identified as a model of reform across Australia.⁵

The success of Victoria's reform process could be translated to the Queensland context by engaging the Queensland Law Reform Commission (QLRC), a statutory body under the *Law Reform Commission Act 1968*, to conduct a similar inquiry. As an independent law reform agency, the QLRC

¹ *Criminal Code Act 1899* (Qld), ss. 224-226.

² *Crime Act 1958* (NSW), ss. 82-84.

³ Victoria, Parliamentary Debates, Legislative Council, 18 July 2007, p. 2120.

⁴ Victorian Law Reform Commission, *Law of Abortion: Final Report*, 2008, p. 12.

⁵ De Costa, C. & Douglas, H., 2015, 'Abortion law in Australia: It's time for national consistency and decriminalisation', *Medical Journal of Australia*, vol. 203, no. 9, p. 350.

would be well-placed to provide a strong, evidence-based review of the morally and socially complex issues surrounding abortion laws.⁶

A full inquiry would combine careful consultation with strong clinical and legal advice. This would help to prepare a Bill that would bring Queensland in line with other jurisdictions, while also comprehensively targeting the state-specific legislative and policy context.

⁶ Morgan, J., 2012, 'Abortion Law Reform: the Importance of Democratic Change', *UNSW Law Journal*, vol. 35, no. 1, p. 159.