



CHILDREN BY CHOICE
ASSOCIATION INCORPORATED

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Comments by Children by Choice on the draft *Reproductive Health (Access to Terminations) Bill 2013* that proposes changes to pregnancy termination laws in Tasmania.

About Children by Choice

Children by Choice is a community organisation that provides counselling, information and education services on all options with an unplanned pregnancy, including abortion, adoption and parenting. We provide a Queensland-wide telephone counselling, information and referral service to women experiencing unplanned pregnancy. We deliver sexual and reproductive health education sessions in schools and youth forums, and offer training for General Practitioners and other health and community professionals on unplanned pregnancy options. We advocate on women's sexual and reproductive health issues at a state and federal level.

Children by Choice supports women's access to all options with an unplanned pregnancy, including abortion, and have been involved in helping women access these options since the service began operation in 1972. Children by Choice is the only independent, not-for-profit women's service dedicated to unplanned pregnancy in Australia.

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General comments about the proposed laws

Children by Choice welcome the proposed changes to pregnancy termination laws in Tasmania as set out in the draft *Reproductive Health (Access to Terminations) Bill 2013*. We commend the Tasmanian Minister for Health's move for pregnancy termination laws to be repealed from the Criminal Code and replaced with an appropriate regulatory framework that recognises the importance of safe and legal reproductive health care services being available to all Tasmanian women.

Importantly, the proposed change removes the threat of possible criminal prosecution of women and medical practitioners involved in the provision of pregnancy termination services. The criminalising of abortion provision is out of step with today's community attitudes as well as current health and medical practice in Tasmania and Australia. Criminal sanctions originate from laws in the United Kingdom that were introduced in the 1860s - a time when women were not recognised as full citizens nor regarded as capable of making informed decisions about their lives and health. In contemporary Australian society, women are now extended legal rights and protections equal to those of men and the continuance of criminal sanctions and barriers to reproductive health care runs counter to this.

We strongly endorse the commentary about the need for reform that is included in the Information Paper.

The current law in Tasmania needs to change:

- *so that women can have a termination without fear of criminal sanctions;*
- *so doctors can provide terminations without fear of criminal sanctions;*
- *to remove barriers to the provision of accessible, equitable, and quality termination services with a capacity for timely access;*
- *to balance the existing right of doctors to follow their personal beliefs on termination and (except in an emergency) refuse to treat a woman - with the right of all women to quality and non-judgemental healthcare and to unbiased information from which to make informed choices; and*
- *to respect and acknowledge women as competent and conscientious decision makers.*

Public support for the legal right to abortion

Well designed surveys of community attitudes in Australia have consistently shown strong support for a woman's right to choose abortion when faced with an unplanned pregnancy. The 2003 Australian Survey of Social Attitudes found that 81% of respondents supported women having the right to choose whether or not to have an abortion. A survey of 1000 Tasmanians in 2012 by ERMS on behalf of Family Planning Tasmania, found that 86% supported abortion being treated as health matter between a woman and her doctor, not as a criminal matter.

Health profession attitudes and practice

Current medical practice and opinions support women's access to safe pregnancy termination services. A 2009 survey of Australian obstetricians and gynaecologists published in the *Medical Journal of Australia* found that 85% of O&Gs were not opposed to abortion and 90% of these doctors agreed that abortion should be available through the public health system in all states and territories.

Current health and medical care is generally guided by evidence based, peer-reviewed clinical standards and not via prescriptive legislative requirements. This allows medical care to be tailored to the individual needs of patients and best practice to develop according to clinical evidence and

experience. In the area of pregnancy termination, the Royal College of Obstetricians and Gynaecologists sets out best practice in the provision of abortion in their evidence-based clinical guideline, *Care of Women Requesting Induced Termination (2011)*. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists has also produced a guide for its members, *Termination of pregnancy: A resource for health professionals (2005)*.

Gestational limits to pregnancy termination services

Children by Choice believe the best interests of the woman should inform any laws in relation pregnancy termination and a staged gestational approach as proposed in the new law comprises this imperative. The staged approach based on gestation of the pregnancy can endanger women's health and well-being by denying her access to health services.

According to the Australian Health and Welfare Institute over almost 95 % of pregnancy terminations occur in early pregnancy i.e. before 14 weeks gestation, 4.7% between 13 and 20 weeks, and 0.7% after 20 weeks. Terminations that occurred after 20 weeks were for both psychosocial reasons and foetal abnormalities.

A second trimester ultrasound scan is performed for the identification of foetal abnormalities at 18-20 weeks gestation. Children by Choice understands that some ante-natal testing conducted around the 18-20 week time period in Tasmania has to be sent to the mainland for results. The diagnosis of severe abnormality can be very distressing for some women and their families. Women should not be pressured into making a rushed decision about the continuation of a pregnancy for fear of not being eligible for a pregnancy termination due to an arbitrary gestational restriction. In a review of the Western Australian abortion laws (that set a limit of 20 weeks beyond which decision making was given over to a government-appointed panel of doctors), women reported feeling pressured, uncertain and felt a diminished sense of personal control in making an important life decision. Health professionals reported that they feared decisions being made in haste due to these laws could have psychological implications, and were critical of a panel being government appointees, due to bias and judgemental attitudes.

Terminations after 20 weeks for so-called 'psycho-social' reasons are in such small numbers it seems unnecessary to make specific regulations for terminations that occur in the latter half of the second trimester. Women who seek them are often in very difficult personal situations or may have extenuating circumstances that have delayed their decision-making and seeking of services. These include sexual assault, age, change in relationship circumstances, a negative change in health status, substance abuse, and access and affordability issues.

If a gestational limitation is to be placed on women and medical practitioners' autonomy in relation to pregnancy termination, it should be no lower than 24 weeks, which is currently proposed in the draft Bill.

There is evidence that denying abortion to woman with an unwanted pregnancy who has decided to terminate has long-term negative consequences for her health and the resulting unwanted child. The Global Turnaway study in the United States has found that a woman who is denied an abortion is more likely to remain in an abusive relationship, and also more likely to be in receipt of government welfare benefits a year on, than women able to access an abortion when they wanted to.

Conscientious objection and the obligation to refer

Children by Choice strongly supports the inclusion of the requirement of medical practitioners and counsellors to state a conscientious objection and refer to another practitioner who they know supports all options with an unplanned pregnancy.

Requirements for conscientious objectors to refer pregnant women seeking abortion to other professionals protects the rights of doctors to hold their own values while ensuring these do not unduly affect women seeking services.

The main argument against conscientious objection clauses, particularly Victoria's, is that they force doctors and nurses to participate in the abortion process.

The only circumstance where Victorian abortion law, and the Tasmanian proposal under discussion, compels doctors and nurses to participate in an abortion procedure, is in a medical emergency when a pregnancy is posing an immediate threat to a woman's life.

In every other situation, apart from those where a woman is in danger of dying if she does not receive emergency care, doctors can invoke their right to conscientious objection.

Contrary to claims from the anti-choice lobby, doctors in Victoria are not forced to refer for abortion. What they are obligated to do if they have a conscientious objection to abortion, is make that objection known to their patient and then refer that patient to a doctor they know does not hold the same objection – in line with the Australian Medical Association's Code of Ethics for health professionals:

When a personal moral judgment or religious belief alone prevents you from recommending some form of therapy, inform your patient so that they may seek care elsewhere.

Access zones

Creating exclusion zones to protect patients and employees of pregnancy termination services from offensive and obstructive behaviour by protesters is an important and necessary initiative. This clause aims to prevent that behaviour while not impinging people's right to protest via a range of usual protest means.

Most providers of pregnancy termination services have extensive experience with protestors being obstructive, abusive and violent toward patients, their support people, staff and passers-by. Many clients of Children by Choice anecdotally report concerns about their safety and privacy due to harassment by protesters outside clinics. In Victoria in 2001, a security guard at a pregnancy termination service was murdered by an anti-abortion protestor.

The Centre for Reproductive Rights has released a report, *Defending Human Rights*, on the impact of anti-choice protests. Below are some of their findings:

Costs of Intimidation and Harassment. *Anti-abortion activity, particularly as it crosses over from free speech to intimidation and harassment, is very burdensome to many abortion clinics. In addition to large investments in security and alarm systems, clinics—particularly those without adequate police protection expend thousands of dollars annually on security guards to protect staff and patients. Time is taken away from patient care to counsel patients affected by anti-abortion activity, and time and resources are invested in making staff feel safe and to train them in security matters.*

Providers also report that many trained physicians are deterred from performing abortions by the economic pressures placed on them in their private practices by the presence, or threat, of protest activity. Some are deterred by the stigma associated with being known as an abortion provider, or the effects harassing protestors will have on their patient caseload or receipt of referrals from other physicians. Others are prohibited by their partners or institutions from performing abortions because of these concerns

Personal Toll on Staff and Women Seeking Abortions. *On a personal level, working at an abortion clinic takes a daily toll on the well-being of clinic staff and physicians. In particular, walking a gauntlet of ugly epithets and personal targeting, apart from fears for their physical safety, is demeaning and depleting. Staff and owners in Alabama, Pennsylvania, and Texas discussed how clinic owners or administrators “put themselves out there” as the face of the clinic to the media and abortion opponents in order to protect their staff.*

While staff turnover was infrequently reported, many staff report feeling anger and frustration on behalf of patients, as well as concern that the patients’ confidence in providers and their care is shaken by hearing the slurs and lies of protestors. Staff report that many women are frightened and anxious when they come into the clinic, or reschedule appointments in an effort to avoid protestors, which sometimes results in delaying a procedure beyond the gestational limits of the clinic.

A staff member who works at the front desk in the Fargo, North Dakota clinic on procedure days is the first person patients see: “They always ask if the protestors are always there, will they be there when I leave,” she said. “...Always, some are so shaky they can’t hold the pen when they have to register.”

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