

INQUIRY INTO REPRODUCTIVE HEALTH CARE REFORM BILL 2019

Organisation: Public Interest Advocacy Centre (PIAC)

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Legislative Council Standing Committee on Social Issues
NSW Parliament
[Lodged electronically]

Dear Committee Members

Reproductive Health Care Reform Bill 2019

Thank you for the opportunity to provide this short submission to inform the Committee as it considers the Reproductive Health Care Reform Bill 2019.

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney. Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

PIAC is a member of the NSW Pro-Choice Alliance and we urge Members of the Standing Committee on Social Issues, and of the Legislative Council more broadly, to support the Reproductive Health Care Reform Bill 2019.

We do so for four main reasons. First, the termination of a pregnancy should not be considered a criminal act. Currently, sections 82 to 84 of the *Crimes Act 1900* (NSW) criminalise this activity, with punishments of up to 10 years imprisonment for people involved in terminations, including women and their doctors. The Reproductive Health Care Reform Bill 2019 removes these unjustified and unnecessary provisions.

Second, the termination of a pregnancy should be considered a health act. We agree with the NSW Bar Association in their call for decriminalisation on the basis that 'abortion should generally be treated as a health matter and a woman's autonomy and health should be promoted.'ⁱ

We also support Community Legal Centres NSW who state that 'criminalisation of abortion does not reflect modern medical practice or social expectations regarding reproductive health and autonomy. All patients should be able to access abortions... safe from the threat of criminal prosecutions and harassment.'ⁱⁱ The Reproductive Health Care Reform Bill 2019 would achieve these aims by allowing pregnant people to make this health decision for themselves.

Third, the decriminalisation of abortion will benefit pregnant people around NSW, including people from disadvantaged and/or regional, rural and remote

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communities. The current legal situation acts as a disincentive to the provision of terminations, particularly outside major metropolitan areas.

We note that the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) supports 'equitably access to termination services on the basis of healthcare need. Services should not be limited by age, socioeconomic disadvantage or geographic isolation.'ⁱⁱⁱ

We further note that the Australian Medical Association (AMA) argues that pregnant people should have access to "safe and legal termination services... on the basis of healthcare need and should not be limited by age, socioeconomic disadvantage or geographical location."^{iv}

By repealing current sections 82 to 84 of the *Crimes Act*, and inserting a new section 82, the Reproductive Health Care Reform Bill 2019 will decriminalise abortion and enhance the provision of termination services to those people who need them.

Fourth, the decriminalisation of abortion provides certainty to doctors and health care professionals about the legality of providing these services, meaning they no longer need to rely on common law precedent (via the *Levine* ruling of 1971).^v As noted by the Law Society of NSW, the current law 'remains an insecure and problematic basis on which to operate and, in particular, has led to many medical practitioners being reluctant to work in the area.'^{vi}

Passage of the Reproductive Health Care Reform Bill 2019 would provide clarity to doctors and health care professionals. More importantly, it would allow pregnant people to focus on making this decision in relation to their own health without the threat of criminal prosecution. We therefore hope this legislation is passed as quickly as possible.

Thank you for taking this submission into consideration. If the Committee requires any further information, please contact our Senior Policy Officer, Mr Alastair Lawrie,

Yours sincerely

Jonathon Hunyor
Chief Executive Officer
Public Interest Advocacy Centre

ⁱ NSW Bar Association, 2019, 'NSW Election 2019 Policy Statement', https://www.nswbar.asn.au/docs/webdocs/Election_2019_22.2.19.pdf

ⁱⁱ Community Legal Centres NSW, 2019, 'Abortion Law Reform', <https://www.clcnsw.org.au/policy/abortion-law-reform>

ⁱⁱⁱ Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) via <https://www.ogmagazine.org.au/wp-content/uploads/2018/06/OG-Magazine-Winter-2018-Abortion-Web.pdf>

^{iv} Australian Medical Association, 2014, 'Women's Health – Position Statement', <https://ama.com.au/position-statement/womens-health-2014>

^v *R v Wald* (1971) 3 DCR (NSW) 25.

^{vi} NSW Parliamentary Research Service, 2017, 'Abortion Law: A national perspective', <https://www.parliament.nsw.gov.au/researchpapers/Documents/Abortion%20Law.pdf>