



Queensland

Termination of Pregnancy Bill 2018



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Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
3	Purposes	6
4	Definitions	6
Part 2	Performance of terminations by registered health practitioners	
5	Termination by medical practitioner at not more than 22 weeks	7
6	Termination by medical practitioner after 22 weeks	7
7	Registered health practitioners who may assist	8
8	Registered health practitioner with conscientious objection	8
9	Compliance with this part relevant to professional conduct or performance	9
Part 3	Protection from criminal responsibility	
10	Woman does not commit an offence for termination on herself	10
Part 4	Safe access zones	
Division 1	Preliminary	
11	Purpose	10
12	Application of part	10
13	Meaning of termination services premises	10
14	Meaning of safe access zone	11
Division 2	Offences	
15	Prohibited conduct in safe access zones	11
16	Recording persons in or near termination services premises	12
Part 5	Miscellaneous	
17	Evidentiary aids	13
18	Regulation-making power	14
Part 6	Amendment of Acts	

Contents

Division 1	Amendment of this Act	
19	Act amended	14
20	Amendment of long title	14
Division 2	Amendment of Criminal Code	
21	Code amended	14
22	Omission of ss 224–226	14
23	Amendment of s 282 (Surgical operations and medical treatment)	14
24	Amendment of s 313 (Killing unborn child)	15
25	Insertion of new s 319A	16
	319A Termination of pregnancy performed by unqualified person	16
Division 3	Amendment of Evidence Act 1977	
26	Act amended	18
27	Amendment of s 14B (Other definitions for division)	18
28	Amendment of s 21A (Evidence of special witnesses)	18
29	Amendment of s 21AC (Definitions for div 4A)	18
30	Amendment of s 21M (Meaning of protected witness)	18
Division 4	Amendment of Guardianship and Administration Act 2000	
31	Act amended	19
32	Amendment of s 71 (Termination of pregnancy)	19
Division 5	Amendment of Penalties and Sentences Act 1992	
33	Act amended	19
34	Amendment of s 151F (When treatment order can not be made)	19
Division 6	Amendment of Police Powers and Responsibilities Act 2000	
35	Act amended	20
36	Amendment of s 30 (Prescribed circumstances for searching persons without warrant)	20
37	Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)	20
Division 7	Amendment of Transport Operations (Road Use Management) Act 1995	
38	Act amended	20
39	Insertion of new ch 7, pt 22	21
	Part 22 Transitional provision for Termination of Pregnancy Act 2018	
	232 Sch 2 applies to repealed offence	21
40	Amendment of sch 2 (Disqualifying offences under the Criminal Code—	

Contents

	crossing supervisors)	21
Schedule 1	Dictionary	22

2018

A Bill

for

An Act about the termination of pregnancies, and to amend this Act, the Criminal Code, the *Evidence Act 1977*, the *Guardianship and Administration Act 2000*, the *Penalties and Sentences Act 1992*, the *Police Powers and Responsibilities Act 2000* and the *Transport Operations (Road Use Management) Act 1995* for particular purposes

[s 1]

The Parliament of Queensland enacts—	1
Part 1 Preliminary	2
1 Short title	3
This Act may be cited as the <i>Termination of Pregnancy Act 2018</i> .	4 5
2 Commencement	6
This Act commences on a day to be fixed by proclamation.	7
3 Purposes	8
The purposes of this Act are—	9
(a) to enable reasonable and safe access by women to terminations; and	10 11
(b) to regulate the conduct of registered health practitioners in relation to terminations.	12 13
4 Definitions	14
The dictionary in schedule 1 defines particular words used in this Act.	15 16

Part 2	Performance of terminations by registered health practitioners	1 2
5	Termination by medical practitioner at not more than 22 weeks	3 4
	A medical practitioner may perform a termination on a woman who is not more than 22 weeks pregnant.	5 6
6	Termination by medical practitioner after 22 weeks	7
(1)	A medical practitioner may perform a termination on a woman who is more than 22 weeks pregnant if—	8 9
(a)	the medical practitioner considers that, in all the circumstances, the termination should be performed; and	10 11 12
(b)	the medical practitioner has consulted with another medical practitioner who also considers that, in all the circumstances, the termination should be performed.	13 14 15
(2)	In considering whether a termination should be performed on a woman, a medical practitioner must consider—	16 17
(a)	all relevant medical circumstances; and	18
(b)	the woman’s current and future physical, psychological and social circumstances; and	19 20
(c)	the professional standards and guidelines that apply to the medical practitioner in relation to the performance of the termination.	21 22 23
(3)	In an emergency, a medical practitioner may perform a termination on a woman who is more than 22 weeks pregnant, without acting under subsections (1) and (2), if the medical practitioner considers it is necessary to perform the termination to save the woman’s life or the life of another unborn child.	24 25 26 27 28 29

[s 7]

- 7 Registered health practitioners who may assist** 1
- (1) A medical practitioner may assist in the performance of a 2
termination on a woman by another medical practitioner. 3
- (2) A nurse, midwife, pharmacist, Aboriginal and Torres Strait 4
Islander health practitioner or other registered health 5
practitioner prescribed by regulation may, in the practice of 6
his or her health profession, assist in the performance of a 7
termination on a woman by a medical practitioner. 8
- (3) However, subsections (1) and (2) do not apply in relation to a 9
termination that the assisting registered health practitioner 10
knows, or ought reasonably to know, is being performed by 11
the medical practitioner other than under section 5 or 6. 12
- (4) A reference in this section to assisting in the performance of a 13
termination by a medical practitioner includes dispensing, 14
supplying or administering a termination drug on the medical 15
practitioner's instruction. 16
- 8 Registered health practitioner with conscientious 17
objection** 18
- (1) This section applies if— 19
- (a) a person asks a registered health practitioner to— 20
- (i) perform a termination on a woman; or 21
- (ii) assist in the performance of a termination on a 22
woman; or 23
- (iii) make a decision under section 6 whether a 24
termination on a woman should be performed; or 25
- (iv) advise the person about the performance of a 26
termination on a woman; and 27
- (b) the practitioner has a conscientious objection to the 28
performance of the termination. 29
- (2) The registered health practitioner must disclose the 30
practitioner's conscientious objection to the person. 31

-
- (3) If the request is by a woman for the registered health practitioner to perform a termination on the woman, or to advise the woman about the performance of a termination on the woman, the practitioner must refer the woman, or transfer her care, to—
- (a) another registered health practitioner who, in the first practitioner’s belief, can provide the requested service and does not have a conscientious objection to the performance of the termination; or
 - (b) a health service provider at which, in the practitioner’s belief, the requested service can be provided by another registered health practitioner who does not have a conscientious objection to the performance of the termination.
- (4) This section does not limit any duty owed by a registered health practitioner to provide a service in an emergency.
- 9 Compliance with this part relevant to professional conduct or performance**
- (1) In considering a matter under an Act about a registered health practitioner’s professional conduct or performance, regard may be had to whether the practitioner—
- (a) performs a termination on a woman other than as authorised under section 5 or 6; or
 - (b) assists in the performance of a termination on a woman other than as authorised under section 7; or
 - (c) contravenes section 8.
- (2) The matters to which subsection (1) applies include matters arising in—
- (a) a notification under the Health Practitioner Regulation National Law (Queensland); or
 - (b) a complaint under the *Health Ombudsman Act 2013*; or
 - (c) a referred matter under the Health Practitioner Regulation National Law (Queensland).
-

[s 10]

Part 3	Protection from criminal responsibility	1 2
10	Woman does not commit an offence for termination on herself	3 4
	Despite any other Act, a woman who consents to, assists in, or performs a termination on herself does not commit an offence.	5 6
Part 4	Safe access zones	7
Division 1	Preliminary	8
11	Purpose	9
	The purpose of this part is to protect the safety and well-being, and respect the privacy and dignity, of—	10 11
	(a) persons accessing services provided at termination services premises; and	12 13
	(b) persons who are employed to provide services at termination services premises or otherwise need to access the premises in the course of their duties or responsibilities.	14 15 16 17
12	Application of part	18
	This part applies despite the <i>Peaceful Assembly Act 1992</i> .	19
13	Meaning of <i>termination services premises</i>	20
	In this part—	21
	<i>termination services premises</i> —	22
	(a) means premises at which a service of performing terminations on women is ordinarily provided; but	23 24

(b) does not include a pharmacy. 1

14 Meaning of *safe access zone* 2

(1) A place is in the *safe access zone* for termination services premises if the place is— 3
4

(a) in the premises; or 5

(b) not more than the prescribed distance from an entrance to the premises. 6
7

(2) Unless a distance is prescribed under subsection (3), the prescribed distance for subsection (1)(b) is 150m. 8
9

(3) A regulation may prescribe a distance for subsection (1)(b) for stated termination services premises. 10
11

(4) The Minister may recommend to the Governor in Council the making of a regulation under subsection (3) only if satisfied that, having regard to the location of the premises, a prescribed distance of 150m is insufficient, or greater than is necessary, to achieve the purpose of this part in relation to the premises. 12
13
14
15
16
17

Division 2 Offences 18

15 Prohibited conduct in safe access zones 19

(1) A person's conduct in the safe access zone for termination services premises is *prohibited conduct* if the conduct— 20
21

(a) relates to terminations or could reasonably be perceived as relating to terminations; and 22
23

(b) would be visible or audible to another person in, or entering or leaving, the premises; and 24
25

(c) would be reasonably likely to deter a person mentioned in paragraph (b) from— 26
27

(i) entering or leaving the premises; or 28

(ii) requesting or undergoing a termination; or 29

[s 16]

- (iii) performing, or assisting in the performance of, a termination. 1
2
- (2) A person's conduct may be prohibited conduct whether or not another person sees or hears the conduct or is deterred from taking an action mentioned in subsection (1)(c)(i) to (iii). 3
4
5
- (3) A person must not engage in prohibited conduct in the safe access zone for termination services premises. 6
7
- Maximum penalty—20 penalty units or 1 year's imprisonment. 8
9
- (4) Subsection (3) does not apply to a person employed to provide a service at the termination services premises. 10
11
- 16 Recording persons in or near termination services premises** 12
13
- (1) This section applies in relation to a recording (a *restricted recording*) that— 14
15
- (a) is an audio or visual recording of a person while the person is in, or entering or leaving, termination services premises; and 16
17
18
- (b) contains information that identifies, or is likely to lead to the identification of, the person. 19
20
- (2) A person must not, without reasonable excuse, make a restricted recording of another person without the other person's consent. 21
22
23
- Example—* 24
- It may be a reasonable excuse for the occupier of premises to make a restricted recording of persons in or near the premises, without the persons' consent, for security purposes. 25
26
27
- Maximum penalty—20 penalty units or 1 year's imprisonment. 28
29
- (3) A person must not, without reasonable excuse, publish or distribute a restricted recording of another person without the other person's consent. 30
31
32

[s 18]

18	Regulation-making power	1
	The Governor in Council may make regulations under this Act.	2 3
Part 6	Amendment of Acts	4
Division 1	Amendment of this Act	5
19	Act amended	6
	This division amends this Act.	7
20	Amendment of long title	8
	Long title, from ‘, and to amend’— <i>omit.</i>	9 10
Division 2	Amendment of Criminal Code	11
21	Code amended	12
	This division amends the Criminal Code.	13
22	Omission of ss 224–226	14
	Sections 224 to 226— <i>omit.</i>	15 16
23	Amendment of s 282 (Surgical operations and medical treatment)	17 18
	(1) Section 282(1)— <i>omit, insert—</i>	19 20

(1)	A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill, a surgical operation on or medical treatment of a person or unborn child if performing the operation or providing the treatment is reasonable, having regard to all the circumstances of the case.	1 2 3 4 5 6 7
(1A)	A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill, a surgical operation on or medical treatment of a person or unborn child in an emergency if it is necessary to perform the operation or provide the treatment to save the mother's life or the life of another unborn child.	8 9 10 11 12 13 14
(2)	Section 282(4), definitions <i>medical treatment</i> and <i>surgical operation</i> — <i>omit.</i>	15 16 17
(3)	Section 282(4)— <i>insert—</i> <i>medical treatment</i> , for subsection (1), does not include medical treatment provided by an unqualified person that is intended to adversely affect an unborn child. <i>surgical operation</i> , for subsection (1), does not include a surgical operation performed by an unqualified person that is intended to adversely affect an unborn child. <i>unqualified person</i> see section 319A(4).	18 19 20 21 22 23 24 25 26 27 28
24	Amendment of s 313 (Killing unborn child)	29
	Section 313— <i>insert—</i>	30 31
	(1A) A person does not commit an offence against subsection (1) by performing a termination, or	32 33

[s 25]

assisting in the performance of a termination, under the <i>Termination of Pregnancy Act 2018</i> .	1 2
<i>Note—</i>	3
See also the <i>Termination of Pregnancy Act 2018</i> , section 10 in relation to a woman’s criminal liability for a termination on herself.	4 5 6
25 Insertion of new s 319A	7
After section 319—	8
<i>insert—</i>	9
319A Termination of pregnancy performed by unqualified person	10 11
(1) An unqualified person who performs a termination on a woman commits a crime.	12 13
Maximum penalty—7 years imprisonment.	14
(2) An unqualified person who assists in the performance of a termination on a woman commits a crime.	15 16 17
Maximum penalty—7 years imprisonment.	18
(3) A reference in subsection (2) to assisting in the performance of a termination includes—	19 20
(a) supplying, or procuring the supply of, a termination drug for use in a termination; and	21 22 23
(b) administering a termination drug.	24
<i>Note—</i>	25
The <i>Termination of Pregnancy Act 2018</i> , section 10 provides that a woman who consents to, assists in, or performs a termination on herself does not commit an offence.	26 27 28 29
(4) In this section—	30
<i>perform</i> includes attempt to perform.	31
<i>prescribed practitioner</i> means a person registered	32

under the Health Practitioner Regulation National Law to practise in any of the following health professions, other than as a student—	1 2 3
(a) the Aboriginal and Torres Strait Islander health practice profession;	4 5
(b) the midwifery profession;	6
(c) the nursing profession;	7
(d) the pharmacy profession;	8
(e) the health profession of a registered health practitioner prescribed under the <i>Termination of Pregnancy Act 2018</i> , section 7(2).	9 10 11 12
termination means an intentional termination of a pregnancy in any way, including, for example, by—	13 14 15
(a) administering a drug; or	16
(b) using an instrument or other thing.	17
termination drug means a drug of a kind used to cause a termination.	18 19
unqualified person means—	20
(a) in relation to performing a termination on a woman—a person who is not a medical practitioner; or	21 22 23
(b) in relation to assisting in the performance of a termination on a woman—a person who is not—	24 25 26
(i) a medical practitioner; or	27
(ii) a prescribed practitioner providing the assistance in the practice of his or her health profession.	28 29 30
woman means a female person of any age.	31

[s 26]

Division 3	Amendment of Evidence Act 1977	1
26	Act amended	2
	This division amends the <i>Evidence Act 1977</i> .	3
27	Amendment of s 14B (Other definitions for division)	4
	Section 14B, definition <i>sexual assault offence</i> , paragraph (a)(ii), ‘, other than section 224, 225 or 226’—	5 6
	<i>omit.</i>	7
28	Amendment of s 21A (Evidence of special witnesses)	8
	Section 21A(1), definition <i>sexual offence</i> , paragraph (b), ‘, other than section 224, 225 or 226’—	9 10
	<i>omit.</i>	11
29	Amendment of s 21AC (Definitions for div 4A)	12
(1)	Section 21AC, definition <i>offence involving violence</i> , second dot point, after ‘319,’—	13 14
	<i>insert—</i>	15
	319A,	16
(2)	Section 21AC, definition <i>offence of a sexual nature</i> , first dot point, ‘other than section 224, 225 or 226’—	17 18
	<i>omit.</i>	19
30	Amendment of s 21M (Meaning of <i>protected witness</i>)	20
	Section 21M(3), definition <i>prescribed offence</i> , after ‘309,’—	21
	<i>insert—</i>	22
	319A,	23

Division 4	Amendment of Guardianship and Administration Act 2000	1 2
31	Act amended	3
	This division amends the <i>Guardianship and Administration Act 2000</i> .	4 5
32	Amendment of s 71 (Termination of pregnancy)	6
	Section 71(1), from ‘is necessary’—	7
	<i>omit, insert—</i>	8
	may be performed by a medical practitioner under the <i>Termination of Pregnancy Act 2018</i> .	9 10
Division 5	Amendment of Penalties and Sentences Act 1992	11 12
33	Act amended	13
	This division amends the <i>Penalties and Sentences Act 1992</i> .	14
34	Amendment of s 151F (When treatment order can not be made)	15 16
	Section 151F(2), definition <i>sexual assault offence</i> , paragraph (a), ‘, other than an offence against section 224, 225 or 226’—	17 18
	<i>omit.</i>	19

[s 35]

Division 6	Amendment of Police Powers and Responsibilities Act 2000	1 2
35	Act amended	3
	This division amends the <i>Police Powers and Responsibilities Act 2000</i> .	4 5
36	Amendment of s 30 (Prescribed circumstances for searching persons without warrant)	6 7
	Section 30—	8
	<i>insert—</i>	9
	(j) the person has committed, is committing, or is about to commit, an offence against the <i>Termination of Pregnancy Act 2018</i> , section 15 or 16.	10 11 12 13
37	Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)	14 15
	Section 32(1)—	16
	<i>insert—</i>	17
	(o) may be evidence of the commission of an offence against the <i>Termination of Pregnancy Act 2018</i> , section 15 or 16.	18 19 20
Division 7	Amendment of Transport Operations (Road Use Management) Act 1995	21 22 23
38	Act amended	24
	This division amends the <i>Transport Operations (Road Use Management) Act 1995</i> .	25 26

39	Insertion of new ch 7, pt 22	1	
	Chapter 7—	2	
	<i>insert—</i>	3	
	Part 22	Transitional provision	4
		for Termination of	5
		Pregnancy Act 2018	6
	232 Sch 2 applies to repealed offence	7	
	Schedule 2 applies as if it included a reference to	8	
	the Criminal Code, section 226 as in force at any	9	
	time before its repeal by the <i>Termination of</i>	10	
	<i>Pregnancy Act 2018.</i>	11	
40	Amendment of sch 2 (Disqualifying offences under the	12	
	Criminal Code—crossing supervisors)	13	
	(1) Schedule 2, entry for section 226—	14	
	<i>omit.</i>	15	
	(2) Schedule 2—	16	
	<i>insert—</i>	17	
	section 319A (Termination of pregnancy	18	
	performed by unqualified person)	19	

Schedule 1	Dictionary	1
	section 4	2
<i>Aboriginal and Torres Strait Islander health practitioner</i>	means a person registered under the Health Practitioner Regulation National Law to practise in the Aboriginal and Torres Strait Islander health practice profession, other than as a student.	3 4 5 6 7
<i>employ</i>	includes engage, whether or not for payment.	8
<i>entering</i>	includes attempting to enter.	9
<i>leaving</i>	includes attempting to leave.	10
<i>midwife</i>	means a person registered under the Health Practitioner Regulation National Law to practise in the midwifery profession, other than as a student.	11 12 13
<i>nurse</i>	means a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession, other than as a student.	14 15 16
<i>pharmacist</i>	means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession, other than as a student.	17 18 19
<i>pharmacy</i>	means premises in which a pharmacy business within the meaning of the <i>Pharmacy Business Ownership Act 2001</i> is carried on.	20 21 22
<i>premises</i>	means a building or part of a building.	23
<i>registered health practitioner</i>	means a person registered under the Health Practitioner Regulation National Law to practise a health profession, other than as a student.	24 25 26
<i>safe access zone</i>	see section 14.	27
<i>termination</i>	means an intentional termination of a pregnancy in any way, including, for example, by—	28 29
(a)	administering a drug; or	30
(b)	using an instrument or other thing.	31

<i>termination drug</i> means a drug of a kind used to cause a termination.	1 2
<i>termination services premises</i> see section 13.	3
<i>woman</i> means a female person of any age.	4

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