

## **Short Title:** *Abortion Law Reform (Women's Right To Choose Bill) 2016*

**Policy Objective:** Removal of Abortion from the Queensland Criminal Code. The current law in Queensland is causing great hardship and personal suffering. Children by Choice manager Amanda Bradley told the *Brisbane Times*: "We get reports of self-abortion, some women we speak to say if I can't get an abortion I will do it myself." Children by Choice received 118 contacts relating to self-abortion or threats of self-abortion in the past year. This Bill would not only help those women, but Queensland doctors. Dr. Carolyn De Costa told the *Cairns Post* that Queensland doctors continue providing abortions despite risking prosecution under existing ambiguous laws. She said, "It's done knowing that there is case law to protect you, if you are charged — but also knowing that it's unlawful. This is the only health procedure that is dealt with like this in criminal legislation. It's way, way out of date and belongs in the 19th century. We're practising medicine in the 21st century."

This Bill will protect vulnerable Queensland women and the doctors that are currently risking prosecution to assist them.

**How Policy Objective is achieved:** This Bill removes sections 224, 225 and 226 from the Criminal Code. These provisions are archaic, outdated and have no place in a modern, liberal democracy. They provide that any person who carries out, or assists with, an abortion may be liable to criminal prosecution, including the woman herself. Currently, should charges be brought under sections 224, 225 and 226 any defence must hinge on the interpretation of the "surgical operations and medical treatment" defence in section 282 of the Code. In the 1986 case [R v Bayliss](#), which interprets section 282 Justice McGuire found that "in exceptional cases" an abortion would not be unlawful where it was carried out in good faith to avoid "serious danger" to the mother's life or her physical or mental health. Omitting sections 224, 225 and 226 will remove the necessity to rely on these two s282 components:

- A) Establishing an exceptional case; and
  - B) Serious danger to the mother's life or her physical or mental health.
- Should this Bill pass, the decision for the doctor would simply need to be that continuing the pregnancy poses a bigger risk to the woman than terminating it.

**Fundamental Legal Principals:** The Bill is consistent with Fundamental Legal Principals

**Alternative ways of achieving policy objective:** There is no alternative way of achieving the policy objectives of this Bill.

**Consultation:** This issue has been debated for many years and further consultation will take place while the Bill is in Committee.

**Benefits of Bill:** The Bill will repeal outdated laws that can criminalise women and doctors for a basic human right and a medical procedure. Many people do not even know that abortion still sits in the Criminal Code until they need to make a decision about it. There seems to be a real disconnect between what the law is, what people think it says and what people believe it should be. Being one of the only two states where abortion is still part of the criminal code is an embarrassment to Queensland (noting the other state of New South Wales is currently debating this same issue). These archaic laws are dangerous and have no place in modern society where women should always have control over their own bodies. This Bill will protect vulnerable Queensland women and the doctors that are currently risking prosecution to assist them.

**Costs of the Bill:** The Bill is not anticipated to cause any increased costs to the state of Queensland. There may be a saving arising from less unnecessary and costly prosecutions.