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30 May 2019

YWCA Australia submission to the South Australian Law Reform Institute (SALRI) Re: Consultation into South Australian Abortion Law

YWCA Australia is a leading national feminist organisation working towards a future where all women and girls are equal, safe and respected with equal access to power, opportunity and resources. YWCA Australia undertakes advocacy and delivers programs and services that develop the leadership and collective power of women, young women and girls; support individuals, their families and communities at critical times; and promotes gender equality to strengthen communities across Australia's diverse social and geographic landscape. YWCA Australia has been providing invaluable community services since the 1880s.

We welcome this opportunity to provide a submission to SALRI on their consultation into abortion law in South Australia. YWCA Australia is currently campaigning across the country for progressive abortion law reform. We take the position that women in all their diversity should have access to non-judgmental information and affordable services relating to sexual health and rights, reproductive health and rights, and safer sex practices

People needing abortions will be referred to in this submission as women. The vast majority of abortions are provided to people who identify as women, however, we acknowledge that other people who do not identify as women can get pregnant, and that transgender men and those with gender diverse identities also require access to reproductive healthcare services such as abortion. .

YWCA Australia supports the South Australian Abortion Action Coalition (saaac) in their calls for **abortion to be completely removed from the criminal law, with no new law specific to abortion introduced in to health law**. The only exception to this is the **inclusion of safe access zones**. YWCA Australia supports saaac's submission in its entirety, which addresses the specific questions set out in the Consultation and provides a comprehensive legal and medical case for the decriminalisation of abortion as a matter of best practice, modern health care and of the protection of women's right to bodily autonomy.

We affirm that with the removal of abortion from the criminal code, all remaining legislative matters referred to in SALRI's Consultation Questions document can be, and are currently, dealt with by the comprehensive health laws and regulations and clinical guidelines that already regulate abortion care, as with other all health care.

For example, regulations under the Health Act and within clinical protocol and practices would still provide guidance and limitations around late-term abortions, which are very rare and only performed in serious cases. Additionally, those facing unwanted or unplanned pregnancies will still be provided with all treatment options by their doctor under the strict requirements of the Consent to Medical Treatments and Palliative Care Act 1995, as part of obtaining informed consent. Failure to provide these options results in significant penalties. Furthermore, doctors and health care practitioners will still have the right to conscientious objection under the Health Practitioner Regulation National Law.



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YWCA Australia anticipates that if and when abortion is decriminalised in South Australia, existing standards and guidelines for health care practitioners will be updated within the Department of Health and Wellbeing policies, reflecting the new legal environment and providing guidance that is based on contemporary clinical evidence and ethical integrity. Therefore, **we strongly advocate that no aspect of abortion care should be criminalised.**

As one of the last states to have abortion remain in the criminal code, South Australia has some of the most outdated abortion laws in the country. These are no longer fit for purpose or reflective of best practice health care, reinforcing stigma and shame and creating significant barriers for those seeking abortion services. These barriers are more acutely experienced by those living in rural and remote locations, and intersect with other forms of discrimination, including, but not limited to Aboriginal women, LBTIQ people, young women, those who do not have residency in South Australia and people with no income. Recognising and addressing intersectional discrimination is critical to effectively addressing issues of inequities in health services.

An example of this inequity of access is that the current legislation requires women to have resided in South Australia for a period of two months prior to the abortion procedure. This affects women who live in or near centres such as Broken Hill, Mildura, Alice Springs and Darwin, and may normally come to Adelaide for services unavailable in these centres.

Importantly, what the removal of abortion from the criminal code and including safe access zones in South Australia *will* do is:

- Stop abortion being a crime, punishable with life imprisonment, for women and their doctors, as has already been done in most Australian states/territories.
- Improve access to abortion for women in rural and remote areas, by enabling women in South Australia to receive Early Medication Abortion (RU486) from their GPs (within strict clinical guidelines).
- Enable all abortions to be covered by health law and regulations in accordance with modern care standards, including the very small number required after 20 weeks gestation.
- Protect the privacy and safety of women and staff outside abortion clinics

The inclusion of safe access zones will address the distressing interference by protesters in close proximity to abortion services, which can at its worst impact the safety and wellbeing of those accessing and providing abortion services. There are currently four Australian jurisdictions, as well as several international territories, that have introduced safe access zone legislation. YWCA Australia have been actively involved in the recent successful campaigns to establish safe access zones in NSW and Queensland and will continue to campaign for Safe Access Zones across the rest of the country. Everyone in Australia looking to access reproductive healthcare services deserves quality healthcare in a safe and non-threatening way.



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Public opinion in Australia is consistently moving in a strong pro-choice direction, with 81% of those surveyed in the 2003 Australian Survey of Social Attitudes (AuSSA) believing a woman should have the right to choose whether or not she has an abortion.¹

The decriminalisation of abortion is also supported by medical and health professionals across Australia. The Royal Australian College of Obstetricians and Gynaecologists², the Public Health Association of Australia³, and Sexual Health and Family Planning Australia⁴, all advocate for the decriminalisation of abortion and equity of access to abortion services. A 2010 survey published in the Medical Journal of Australia found that 85% of practicing obstetricians and gynaecologists are not opposed to abortion, and 90% agree that abortion should be available through the public health system in all states and territories⁵.

It is well understood that best practice abortion care is delivered when abortion at any stage of the pregnancy is treated as a medical procedure. Any law reform in this area should position abortion as a health care procedure like any other, which will enable the safe, effective and efficient provision of abortion now and for the future. South Australia is considered as having among the best standards of abortion service provision in the country, which places us in a unique position to simply update our laws to reflect our high quality and publicly funded care, and, remove barriers to accessing this care.

YWCA Australia is part of World YWCA, a global membership movement of women and young women who have been leading social and economic change in 125 countries, for over 150 years. YWCAs around the world have a strong history of advocating for the provision of sexual and reproductive health and rights, as part of our commitment to the full realisation of the human rights of women, young women and girls. YWCA Australia affirms that the right for women to control their fertility, which includes the decriminalisation of abortion, is critical to is fundamental to women's empowerment and bodily autonomy.

YWCA Australia thanks the South Australian Law Reform Institute for this opportunity to provide feedback on abortion law in South Australia, and we look forward to progressive law reform that aligns to best practice health standards, public opinion, and the health, wellbeing and autonomy of women.

For any further clarification on our submission please contact;
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¹ Betts "Attitudes to Abortion in Australia: 1972 to 2003" *People and Place* 22, 2004, http://tapri.org.au/wp-content/uploads/2016/02/v12n4_3betts.pdf

² S Elks and R Barrett "Peak medical body urges repeal" *The Australian*, 15 October 2010. <http://www.theaustralian.com.au/national-affairs/peak-medical-body-urges-law-repeal/story-fn59niix-1225938903649>

³ Public Health Association of Australia Women's Health Special Interest Group *Abortion in Australia: Public Health Perspectives* 3rd edition, 2005, <http://www.nevdgp.org.au/info/topics/pregnancy/abortioninaust05.pdf>

⁴ *Time for a national sexual and reproductive health strategy for Australia*. Written by Sexual Health and Family Planning Australia, the Public Health Association of Australia, and the Australian Reproductive Health Alliance, 2008 <http://familyplanningallianceaustralia.org.au/wp-content/uploads/2015/09/Time-for-a-national-srh-strategy-call-to-action.pdf>.

⁵ CM de Costa, DB Russell and M Carrette 'Views and practices of induced abortion among Australian Fellows and specialist trainees of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists' *Medical Journal of Australia*, 2010,