

013-13

Tabled by
Hon. C. Tennell MLC

Response to E Petition

Mr Valentine MLC

24/9/13.

: **Reproductive Health (Access to Termination) Bill 2013**

Tasmanian Citizens draw to the attention of the Council the Reproductive Health (Access to Terminations) Bill 2013 noting that the Bill:

- 1 Properly recognises the termination of pregnancy as a health matter and removes the risk of criminal sanctions for women and their medical practitioners; and
- 2 Shows respect for women and their families by providing women with choice in what is a very difficult decision; and
- 3 Respects the right of medical professionals and counsellors to have a conscientious objection to the termination of pregnancy whilst making provision so that a woman's right to access a termination is not impeded; and
- 4 Allows women access to medical and counselling services regarding termination of pregnancy that are not judgemental or designed to impede their access to such services if they choose that option; and
- 5 Protects women from public campaigns and protests that intimidate, shame or stigmatise women and instead affords them privacy and dignity at an otherwise difficult time; and
- 6 Contains appropriate legislative safeguards for the termination of pregnancy after 16 weeks with such safeguards being regarded as acceptable by the wider medical profession and community alike

And in doing so call on the Council to respect the conscience of the community and ensure the passage of the Bill in its entirety

Government's Position:

- Every person is entitled, indeed encouraged, to respectfully share their views and opinions and provide input into the development of policies and laws for the people of Tasmania.
- This petition presents one set of views regarding proposed changes to pregnancy termination laws contained in the *Reproductive Health (Access to Terminations) Bill 2013*.
- The Bill regulates access to terminations within a health context by creating legislation, the *Reproductive Health (Access to Terminations) Bill 2013*. The Minister responsible for the Act will be the Minister for Health.

- Under the proposed changes the law will no longer stigmatise women who seek terminations and doctors who provide them. Instead, access to terminations will be recognised as a reproductive health issue, and not a matter for criminal laws.
- Currently, termination laws are contained within the *Criminal Code Act 1924*.
- Women and doctors who fail to follow specific criteria in that Act are guilty of a crime that is punishable by imprisonment.
- Most people would agree that this is simply not an acceptable situation in the world in which we live today.
- The law is out of step with advances in safe medical practices, community expectations and attitudes towards women and reproductive health.
- It's time the law reflected and supported positive reproductive health outcomes for women experiencing an unplanned pregnancy.
- These changes are a critical step in improving women's access to services.
- The *Reproductive Health (Access to Terminations) Bill 2013* will improve the health and wellbeing of Tasmanian women by reframing terminations in a health, not a criminal, context; reducing impediments to service delivery in Tasmania; and addressing access and equity issues caused by current laws.
- A decision to terminate a pregnancy is a complex and deeply personal decision and it should be a decision for a woman to make, in consultation with her doctor and any other person she chooses.
- As such the woman herself is the best person to make such a decision. This includes deciding upon the nature or extent of any counselling she needs, in consultation with her clinician. Up to and including 16 weeks, the Bill will enable a woman to make this decision, in consultation with her doctor and any other person she may choose. A woman's consent will provide the legal authority for the termination.
- To ensure safe and timely access to termination of pregnancy services the Bill will require doctors and counsellors holding a conscientious objection to terminations to refer a woman who seeks a termination or counselling to a service provider who does not hold such an objection. This clause is critical in ensuring women receive access to unbiased healthcare and information on which to base their choices.
- The referral obligation ensures that doctors and counsellors can adhere to their personal beliefs whilst not imposing them on patients. Women can seek pregnancy options advice without fear of being denied knowledge of the full range of options available to them and without fear of being dissuaded or pushed in a certain direction.

- This referral obligation also balances the right of doctors to operate within their own personal values, with the ethical obligation to act in the best interests of the patient and not deny or impede access to medical care and treatments that are legal. These responsibilities are contained in the professional code of conduct of the Medical Board of Australia. Doctors failing to comply with the referral requirement will risk professional, not criminal, sanctions.
- The Bill enables women to access medical and counselling services that are non-judgmental and support women's access to choices about her reproductive health. This includes deciding upon the nature or extent of any counselling she needs, in consultation with her clinician.
- Making counselling mandatory not only undermines the nature of professional counselling – which is typically non-coercive – but has the potential to do harm, especially when a woman has already made a decision.
- In relation to access zones the Government supports clause 9 in its entirety: there is a clear need for the establishment of access zones in order to ensure women are not subjected to harassment, distress and a lack of privacy while accessing a reproductive health service.
- Access zones will protect and support women to access health services with privacy and dignity. Access zones will also support the goal of improving accessible, equitable and timely services in Tasmania.
- The Bill contains appropriate legislative safeguards for the termination of pregnancy after 16 weeks. The after 16 week framework retains the existing requirement that two doctors must perform a risk of harm test. Current law states that in performing that test the doctor may take into account any matter the doctor believes is relevant.
- The Bill provides greater clarity and certainty for doctors by setting out the circumstances that doctors are to consider in performing the risk of harm test.
- The Bill provides a 'middle ground' approach between the existing model and a model based on consent at all gestations and as such is acceptable to both the wider medical profession and the community.
- Removing the threat of criminal sanctions and providing certainty to the law, will be a critical step in reducing the barriers to service delivery.
- Most importantly the Bill acknowledges women as competent and conscientious decision makers and recognises that a woman is in the best position to make decisions affecting her future and her health.