



Health (Abortion Law Reform) Amendment Bill 2016



Queensland

Health (Abortion Law Reform) Amendment Bill 2016

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2016

A Bill

for

An Act to amend the *Health Act 1937* to reform the law relating to abortion

The Parliament of Queensland enacts—	1
Clause 1 Short title	2
This Act may be cited as the <i>Health (Abortion Law Reform)</i>	3
<i>Amendment Act 2016.</i>	4
Clause 2 Act amended	5
This Act amends the <i>Health Act 1937.</i>	6
Clause 3 Amendment of s 5 (Interpretation)	7
Section 5—	8
<i>insert—</i>	9
<i>abortion</i> , for part 3, see section 19.	10
<i>abortion facility</i> , for part 3, see section 19.	11
<i>images</i> , for part 3, see section 19.	12
<i>registered nurse</i> , for part 3, see section 19.	13
Clause 4 Insertion of new pt 3	14
After section 18B—	15
<i>insert—</i>	16
Part 3 Abortions	17
Division 1 Preliminary	18
19 Definitions for part	19
In this part—	20
<i>abortion</i> means causing a woman’s miscarriage	21
by—	22

- (a) administering a drug; or 1
- (b) using an instrument; or 2
- (c) any other means. 3
- abortion facility*** means a medical facility, or a 4
part of a medical facility, in which abortions are 5
performed. 6
- images***, of a person entering or leaving, or trying 7
to enter or leave, an abortion facility, means 8
moving or still images of the person captured by a 9
camera or by another means in a way that— 10
- (a) a recording is made of the images; or 11
- (b) the images are capable of being published or 12
communicated in real time, with or without 13
retention or storage in a physical or 14
electronic form; or 15
- (c) the images are otherwise capable of being 16
published or communicated. 17
- registered nurse*** means a person registered under 18
the Health Practitioner Regulation National Law 19
to practice in the nursing and midwifery 20
profession or as a midwife, other than as a student. 21

Division 2 Abortion generally 22

- 20 Only qualified health practitioner may perform 23
abortion 24**
- (1) A person who is not a qualified health practitioner 25
must not perform an abortion. 26
Maximum penalty—10 years imprisonment. 27
- (2) For subsection (1)— 28
 - (a) a doctor is a qualified health practitioner; 29
and 30

[s 4]

- (b) a registered nurse is a qualified health practitioner to the extent the nurse performs an abortion by administering a drug at the written direction of a doctor. 1
2
3
4
- (3) A woman does not commit an offence against this section by— 5
6
 - (a) performing an abortion on herself; or 7
 - (b) consenting to, or assisting, in the performance of an abortion on herself. 8
9

21 Abortion on woman more than 24 weeks pregnant 10 11

A doctor may perform an abortion, or direct a registered nurse to perform an abortion by administering a drug, on a woman who is more than 24 weeks pregnant only if the doctor— 12
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- (a) reasonably believes the continuation of the woman's pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated; and 16
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- (b) has consulted at least 1 other doctor who also reasonably believes the continuation of the woman's pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated. 21
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Note— 27

A failure by a doctor to comply with this section does not constitute an offence but may constitute behaviour for which action may be taken under the Health Practitioner Regulation National Law (Queensland), Part 8 or the *Health Ombudsman Act 2013*. 28
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22 Duty to perform or assist in abortion 33

- (1) No-one is under a duty (by contract or by statutory 34

-
- or other legal requirement) to perform or assist in performing an abortion. 1
2
- (2) A person is entitled to refuse to assist in performing an abortion. 3
4
- (3) However, a doctor has a duty to perform, and a registered nurse has a duty to assist a doctor in the performance of, an abortion on a woman in an emergency if the abortion is necessary to save the life of, or to prevent a serious physical injury to, the woman. 5
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8
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10

Division 3 Patient protection 11

23 Declarations for abortion facility 12

- (1) The Minister must, by written notice, declare an area around an abortion facility to be a protected area for the facility. 13
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15
- (2) An area declared to be protected area under subsection (1) must be— 16
17
- (a) at least 50m at any point from the abortion facility; and 18
19
- (b) sufficient to ensure the privacy of, and unimpeded access for, anyone entering, trying to enter or leaving the abortion facility; and 20
21
22
23
- (c) no bigger than necessary to ensure the matter mentioned in paragraph (b). 24
25
- (3) The Minister may, by written notice, declare a period to be a protected period for an abortion facility. 26
27
28
- (4) A notice under subsection (1) or (3) is not subordinate legislation. 29
30
- (5) However, the *Statutory Instruments Act 1992*, sections 49 to 51 apply to the notice as if it were 31
32

subordinate legislation.	1
(6) The chief executive must publish each notice under subsection (1) or (3) for an abortion facility on the department's website.	2 3 4
24 Prohibited behaviour in relation to abortion facility	5 6
(1) A person in a protected area for an abortion facility must not engage in prohibited behaviour.	7 8
Maximum penalty—25 penalty units.	9
(2) In this section—	10
<i>prohibited behaviour</i> , in relation to an abortion facility, means—	11 12
(a) harassing, hindering, intimidating, interfering with, threatening or obstructing a person, including by capturing or attempting to capture images of the person, intended to stop the person from—	13 14 15 16 17
(i) entering the facility; or	18
(ii) having or performing an abortion in the facility; or	19 20
(b) an act that can be seen or heard by a person during the protected period for the facility, and intended to stop a person from—	21 22 23
(i) entering the facility; or	24
(ii) having or performing an abortion in the facility; or	25 26
(c) a protest, by any means, during the protected period for the facility relating to the performance of abortions in the facility.	27 28 29
<i>protected area</i> , for an abortion facility, means an area declared to be a protected area for the facility under section 23(1).	30 31 32
<i>protected period</i> , for an abortion facility,	33

- means— 1
- (a) if the Minister has declared a period to be 2
the protected period for the facility under 3
section 23(3)—the declared period; or 4
- (b) otherwise—the period between 7a.m. and 5
6p.m. on each day the facility is open. 6

**25 Publishing images of person entering or 7
leaving abortion facility 8**

- (1) A person must not publish images of another 9
person entering or leaving, or trying to enter or 10
leave, an abortion facility— 11
- (a) without the other person’s consent; and 12
- (b) with the intention of stopping a person from 13
having or performing an abortion. 14
- Maximum penalty—50 penalty units or 6 months 15
imprisonment. 16
- (2) In this section— 17
- publish***, in relation to images of a person entering 18
or leaving, or trying to enter or leave, an abortion 19
facility— 20
- (a) means publish or communicate the images 21
in a way or to an extent that makes the 22
images available to, or likely to come to the 23
notice of, the public or a part of the public or 24
anyone else not lawfully entitled to the 25
images; and 26
- (b) includes— 27
- (i) enter into an agreement or arrangement 28
to do a thing mentioned in paragraph 29
(a); or 30
- (ii) attempt to do a thing mentioned in 31
paragraph (a) or subparagraph (i). 32