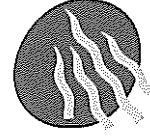




Hon Cameron Dick MP
Member for Greenslopes



Queensland
Government

In reply please quote: 533392/1; 1469709
Your reference: Petitions

Attorney-General
and Minister for Industrial Relations

22 NOV 2010

Mr Neil Laurie
The Clerk of the Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr ~~Laurie~~ Neil,

Thank you for your letter dated 27 October 2010 forwarding petition number 1545-10 received by the Legislative Assembly of Queensland on 26 October 2010.

The petition comments that Queensland women are at risk of criminal prosecution for accessing safe medical procedures and that health professionals remain at risk of criminal prosecution for providing safe abortion services.

The petition requests the House to:

- *recommend to the Queensland Police Commissioner and the Director of Public Prosecutions that the charges against the young Queensland woman who is currently being prosecuted for procuring her own abortion under section 225 of the Criminal Code, and her partner who is charged under section 226 with assisting her, be withdrawn forthwith;*
- *repeal sections 224, 225 and 226 of the Criminal Code to ensure that termination of pregnancy is no longer subject to criminal law, and provide an alternative legislative framework for the provision of safe medical and surgical abortion in Queensland; and*
- *support funding for abortion services through the public health system, with full Medicare coverage for terminations."*

Pursuant to Standing Order 125, I provide the following Ministerial response to the petition.

Level 18 State Law Building
50 Ann Street Brisbane
GPO Box 149 Brisbane
Queensland 4001 Australia
Telephone +61 7 3239 3478
Facsimile +61 7 3220 2475
Email attorney@ministerial.qld.gov.au
ABN 65 959 415 158

Under the Criminal Code it is an offence for a person to procure or attempt to procure an abortion. However, section 282 of the Criminal Code provides an excuse from criminal responsibility to a person who performs a surgical or medical procedure in good faith, with reasonable care and skill, for the patient's benefit or preservation of the mother's life, having regard to the patient's state at the time and to all the circumstances of the case.

Amendments to section 282 of the Criminal Code were passed by the Queensland Parliament on 3 September 2009 to clarify that the excuse from criminal responsibility includes providing medical treatment to a patient, and thus medical terminations. The excuse was clarified to protect doctors who prescribe medication to terminate a pregnancy, in the same way that doctors who perform surgical procedures are protected under the Criminal Code. This amendment was made to provide Queensland's health professionals with certainty to continue to treat their patients appropriately and effectively.

In regard to the Queensland couple charged with procuring their own medical abortion, I note that on 14 October 2010, a jury acquitted the couple of all charges.

The decision to investigate and charge a person with the commission of a criminal offence is a matter for the Queensland Police Service. If the person is subsequently charged, the Director of Public Prosecutions, Queensland's independent prosecuting authority, has the responsibility for determining whether a prosecution should be undertaken. Such decisions are made entirely independent of government and it would have been inappropriate for any member of Parliament to intervene in that decision.

The Premier has publicly stated a number of times that she would like to see abortion decriminalised in Queensland. The Premier believes that decisions in relation to abortion are best made by a woman, her partner and her doctor and that these decisions are ultimately private matters.

Any move to change the current legislative provisions concerning abortion would have to be introduced as a Private Member's Bill and be subject to a conscience vote. The Premier does not believe that there are sufficient numbers in the current Parliament to pass a Bill decriminalising abortion. In fact, it is possible any such Bill would be amended in the Parliament, or alternatively another Bill introduced, which would make these services less accessible. That is the last thing the Premier would want to happen.

As to the request for abortion services to be funded through the public health system, with full Medicare coverage for terminations, I note that while each State and Territory is responsible for enacting laws regarding abortion within its jurisdiction, the Federal Government is responsible for administering how abortions are funded through Medicare. Consequently, any advocacy regarding the level of Medicare funding should be directed to the Federal Government.

For the petitioners' information, Medicare is funded out of general tax revenue and covers all Australian's for costs relating to the hospital and medical services listed in the Medicare Benefits Schedule (Schedule). The Commonwealth Department of Health and Ageing is responsible for the description of items listed on the Schedule, including those relating to the termination of pregnancies.

I trust this information is of assistance.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cameron Dick', with a long horizontal flourish extending to the right.

**Hon Cameron Dick MP
Attorney-General
and Minister for Industrial Relations**