

ABORTION DECRIMINALISATION OVERVIEW

THE ISSUE:

Abortion is still a crime in NSW: Abortion offences are still contained in sections 82 to 84 of the *Crimes Act 1900* (NSW). This means that in NSW, women and their doctors can still be prosecuted for accessing or providing abortions. These laws have not changed in 119 years and leave NSW lagging far behind other Australian jurisdictions.

Criminalisation is out of step with community sentiment: In 2016, the Australian Electoral Study undertaken by the Australian National University found that almost 70 per cent of Australians agreed that women should be able to obtain abortions readily. In 2018, a study published by the Australian and New Zealand Journal of Public Health found that 73 per cent of NSW residents agreed with decriminalisation and believed abortion should be regulated as a healthcare service.

Criminalisation affects women and health care providers in NSW: Accessing abortion in NSW can be expensive, time consuming, stressful and in some cases almost impossible, especially in rural areas. The current laws contribute to problems with access, generating stigma, confusion and a fear of prosecution that can discourage doctors and facilities from providing a full range of reproductive health services, and make it difficult for women to access the healthcare they need.

Criminalisation disproportionately impacts women from disadvantaged or rural and remote communities: Criminalisation has a particularly devastating impact on women from disadvantaged or rural and remote communities who lack the financial means to pay for an abortion or who need to travel long distances to access one. Women facing domestic violence or homelessness often need to seek urgent funding from charities, friends or family to access an abortion in NSW, and this funding can often be unavailable. Costs currently range from hundreds to thousands of dollars. Women in rural and remote communities often need to travel hundreds or thousands of kilometres or even interstate in order to access an abortion.

Key Statistics:

- Approximately one in four women will have an abortion in their lifetime
- Approximately 36,000 abortions took place in NSW in 2018
- 95 per cent of abortions take place before 14 weeks
- Abortions that take place after 22 weeks of gestation usually involve complex medical or psychosocial reasons and all in NSW are carried out within a multidisciplinary context in a hospital

Reliable, timely and detailed data on abortion rates in NSW are not available. This gap in important reproductive health information is a result of criminalisation of abortion. For more information on the statistics provided above, visit our website: <https://www.nswprochoicealliance.org.au/faq>

Access to abortion is access to healthcare: The first step towards improving women’s access to a full suite of reproductive and sexual health care is the decriminalisation of abortion. Leading independent organisations, through the NSW Pro-Choice Alliance, are committed to a campaign that will see this happen in NSW.

OUR GOALS:

The NSW Pro-Choice Alliance represents 72 peak legal, health and community organisations committed to removing abortion from the NSW Crimes Act and ensuring that abortion is regulated like any other health care procedure.

The NSW Pro-Choice Alliance recommends the repeal of sections 82-84 of the *Crimes Act 1900 (NSW)* and the implementation of legislation similar to Queensland’s *Termination of Pregnancy Act 2018* and Victoria’s *Abortion Law Reform Act 2008*.

The Alliance seeks changes to the law that will see abortion decriminalised in NSW, and:

- Regulate abortion as a health procedure
- Ensure consistency with contemporary clinical practice and public health standards
- Empower women with the right to choose what happens to their own bodies, and guarantee equal access to safe, high quality healthcare, and
- Align with international human rights obligations and sensible abortion policy reform across Australia

SUPPORT FOR DECRIMINALISATION:

Medical, legal and community expert support for decriminalisation:

The Law Society of NSW says that the current law “remains an insecure and problematic basis on which to operate and has led to many medical practitioners being reluctant to work in the area”¹.

The NSW Bar Association has called for decriminalisation of abortion, arguing that “abortion should generally be treated as a health matter” and calling for the promotion of women’s autonomy².

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) supports “equitable access to termination services on the basis of healthcare need. Services should not be limited by age, socioeconomic disadvantage or geographic isolation...”³

The Australian Medical Association highlights the risk of non-availability of abortion services and argues that women should be ensured access to “safe and legal termination services ... on the basis of healthcare need and should not be limited by age, socioeconomic disadvantage or geographical location”⁴.

Family Planning NSW has said that “the current law serves as a deterrent for the provision of abortion services and this significantly affects women who are in financial need and live in rural areas”⁵.

¹ <https://www.parliament.nsw.gov.au/researchpapers/Documents/Abortion%20Law.pdf>

² https://www.nswbar.asn.au/docs/webdocs/Election_2019_22.2.19.pdf

³ <https://www.ogmagazine.org.au/wp-content/uploads/2018/06/OG-Magazine-Winter-2018-Abortion-Web.pdf>

⁴ <https://ama.com.au/position-statement/womens-health-2014>

⁵ <https://www.buzzfeed.com/ginarushton/nsw-abortion-decriminalisation-campaign?origin=shp&ref=hpsplash>