



A suitable legislative framework for termination of pregnancy in South Australia

Fact Sheet 7 – Access to Medical Services

According to current legislation anyone who has resided in South Australia for a period of two months and who is up to 28 weeks gestation can lawfully access abortion services in South Australia under prescribed conditions (See Fact Sheet 8 – Current Medical Practices and Fact Sheet 9 – Late Term Terminations). However, clinical practice in South Australia has resulted in abortions being performed only up to 24 weeks gestation.

Nearly all abortions in South Australia are performed in metropolitan public hospitals. The majority are performed at the Pregnancy Advisory Centre, which operates as part of the Queen Elizabeth Hospital.¹

Summary of South Australian Statistics²

There were 4,346 terminations of pregnancy notified in South Australia in 2016, compared with 4,441 terminations in 2015.

Since 1999, there has been a steady decline in the rate of pregnancy terminations in South Australia from 17.9 terminations per 1,000 women in 1999 to 13.2 terminations per 1,000 women in 2016.

Rural, regional and remote access

The present law in South Australia may make access to abortion more difficult and costly for rural and regional women. This is related to the number of regional centres able to provide the service, the availability of medical practitioners in these areas and the restrictions which prevent the use of telehealth services.

The 'prescribed hospital' clause (See Fact Sheet 8 – Current Medical Practices) may disadvantage women in rural, regional and remote South Australia by requiring travel to facilities a significant distance from their home in order to access abortion services and care. This extends to abortion through medication. Such travel adds an additional financial cost to these women.³

¹ Pregnancy Outcome in South Australia 2016. Adelaide: Pregnancy Outcome Unit, Prevention and Population Health Branch, SA Health, Government of South Australia, 2018. [https://www.sahealth.sa.gov.au/wps/wcm/connect/4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1-mAT252p](https://www.sahealth.sa.gov.au/wps/wcm/connect/4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1/Pregnancy+Outcome+in+South+Australia+2016.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPAC-E-4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1-mAT252p).

² Pregnancy Outcome in South Australia 2016. Adelaide: Pregnancy Outcome Unit, Prevention and Population Health Branch, SA Health, Government of South Australia, 2018. [https://www.sahealth.sa.gov.au/wps/wcm/connect/4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1-mAT252p](https://www.sahealth.sa.gov.au/wps/wcm/connect/4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1/Pregnancy+Outcome+in+South+Australia+2016.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPAC-E-4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1-mAT252p).

³ See, for example, Mridula Shankar et al, 'Access, Equity and Costs of Induced Abortion Services in Australia: a Cross-Sectional Study' (2017) 41(3) *Australian and New Zealand Journal of Public Health* 309, 313; Frances Doran and Julie Hornibrook, 'Rural New South Wales Women's Access to Abortion Services: Highlights from an Exploratory Qualitative Study' (2014) 22 *Australian Journal of Rural Health* 121; Carolyn Nickson, Anthony Smith and Julia Shelley, 'Travel undertaken by women accessing private Victorian pregnancy termination services' (2006) 30(4) *Australian and New Zealand Journal of Public Health* 329.

In addition, many remote areas lack skilled and willing medical practitioners, making it more difficult for rural, regional and remote women to be examined by a second medical practitioner, as required by the present law. There are also be particular issues of access for Indigenous communities.⁴

It is important that rural, regional and remote communities are not disadvantaged in regard to access to abortion advice and services in this context.⁵ Both the VLRC⁶ and the QLRC⁷ expressed concern in various contexts regarding access to abortion services in rural, regional and remote areas.

It is significant that 18% of abortions provided in South Australia are for women who reside in rural or remote regions. However, just 2% of all abortions are provided outside metropolitan facilities.⁸ That is, women in rural, regional and remote areas are travelling to access these services.

In 2016, 797 women who resided in country South Australia had a termination of pregnancy. Only 97 of those (12.2%) were able to have a termination in their country area, with the rest needing to travel to the metropolitan area for the service.⁹

The current law requiring an examination in person in South Australia also means that Telehealth providers of abortion services which operates in other Australian states, cannot provide Early Medication Abortion by tele-medicine for South Australian women who live in remote areas.

The present law is based on the circumstances in 1969 where abortion had to be a surgical procedure. Currently a significant number of abortions are now performed by the administration of medication. It is therefore questionable whether the current law reflects modern clinical practice.

Stage of pregnancy

In 2016, 90.2% of pregnancy terminations in South Australia were performed in the first trimester (the first 14 weeks of gestation) and 9.8% of pregnancy terminations were performed in the second trimester (14-27 weeks gestation). No pregnancy terminations were performed after 24 weeks of gestation in South Australia.

⁴ Queensland Law Reform Commission, *Review of Termination of Pregnancy Laws*, Report 76 (June 2018) 28-29 [2.72], 56 [3.30], 73 [3.91]. There may also be particular issues for women from migrant or culturally diverse backgrounds.

⁵ The QLRC noted: 'United Nations treaty bodies have recognised that full enjoyment of the right to health, including sexual and reproductive health, requires access to the full range of health services without discrimination, including availability, physical and geographical accessibility, and affordability, particularly for women in rural areas': Queensland Law Reform Commission, *Review of Termination of Pregnancy Laws*, Report 76 (June 2018) 26 [93]. See also at 102-103 [23]-[25], 104 [29]-[30].

⁶ Victorian Law Reform Commission, *Law of Abortion*, Report No 15 (March 2008) 42 [3.71], 47 [3.100]-[3.103], 53 [3.134], 78 [5.67], 114 [8.28], 127 [8.149]. See also C Nickson, AMA Smith and JM Shelley, 'Travel undertaken by women accessing private Victorian pregnancy termination services' (2006) 30(4) *Australian and New Zealand Journal of Public Health* 329.

⁷ Queensland Law Reform Commission, *Review of Termination of Pregnancy Laws*, Report 76 (June 2018) 41 [2.115]-[2.117], 41 n 83, 56 [3.29], 91 [3.167], 92 [3.170], 102 [3.221], 105 [3.124]-[3.125], 125 [4.42], 143 [4.129], 145 [4.134], 146 [4.141], 151 [4.172]-[4.173], 181 [5.118]. See also further Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee, Parliament of Queensland, *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016 and Inquiry into Laws Governing Termination of Pregnancy in Queensland*, Report 24 (2016) [12.6.3]-[12.6.5].

⁸ Reports of Pregnancy Outcome in South Australia 2007-2014, Government of South Australia, Adelaide. <http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/about+us/health+statistics/pregnancy+outcome+statistics>.

⁹ Pregnancy Outcome in South Australia 2016. Adelaide: Pregnancy Outcome Unit, Prevention and Population Health Branch, SA Health, Government of South Australia, 2018. <https://www.sahealth.sa.gov.au/wps/wcm/connect/4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1/Pregnancy+Outcome+in+South+Australia+2016.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPAC-E-4ccbba85-14c6-4b39-a19e-4e8cd54e9ea1-mAT252p>.

Late term abortions are sensitive, but such procedures are rare. The proportion of terminations performed at 20 weeks gestation or later was 2.8%. Of the 120 pregnancy terminations performed in South Australia at 20 weeks gestation or later, 48.3% were for the mental health of the woman, 43.3% were for congenital anomalies, and 8.3% were for specified medical conditions of the woman.¹⁰

QUESTIONS TO CONSIDER

SALRI is interested in your views regarding access to medical services for termination of pregnancy in South Australia. Some matters you might consider are:

- Should health practitioners (other than medical practitioners) be permitted to authorise or perform, or assist in performing, lawful terminations of pregnancy in South Australia?
- Should there be any requirements in relation to offering counselling for the woman?
- Should South Australia provide for safe access zones in the area around premises where termination of pregnancy services are provided?
- If a safe access zone was established should it:
 - (a) automatically establish an area around the premises as a safe access zone?; or
 - (b) empower the responsible Minister to make a declaration establishing the area of each safe access zone?
- What types of behaviour or conduct should be prohibited in a safe access zone?
- Should the prohibition on behaviours in a safe access zone apply only during periods of operation?
- Given the difficulties of access to medical services in rural areas of South Australia should there be different laws to facilitate access in rural and regional areas?
- Should women be permitted to use telehealth or other electronic services to consult with medical and/or health practitioners?
- Where a woman would otherwise be able to have a termination but does not have local access to clinics able to do so (such as in rural South Australia), should another qualified health practitioner (such as a registered nurse or pharmacist) be permitted to undertake this procedure.
- Should there be a residency requirement to access a lawful abortion in South Australia?

Please note: SALRI does not, and cannot, provide legal advice to individuals. If you are in need of legal advice we encourage you to speak to a lawyer and/or contact a community legal service.

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¹⁰ See also Victorian Law Reform Commission, *Law of Abortion*, Report No 15 (March 2008) 38-40 [3.49]-[3.53], 41-44 [3.64]-[3.85].