



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH AND COMMUNITY WELLBEING
Mr Johnathan Davis (Chair), Mr James Milligan MLA (Deputy Chair),
Mr Michael Petterson MLA

Submission Cover Sheet

Inquiry into Abortion and reproductive choice in the ACT

Submission Number: 17

Date Authorised for Publication: 6 September 2022

EMILY's List Australia

Submission to The Inquiry into abortion and reproductive choice in the ACT

ABOUT EMILY's

EMILY's List Australia has existed since 1996 with the primary aim of getting equal representation of women into Australian Parliaments through the provision of support. EMILY is an acronym; she is not a person. EMILY's stands for Early Money Is Like Yeast; it makes the dough rise.

Our goals are to achieve change through representation on the following:

- Equality
- Choice
- Equal pay
- Early Childhood Education and Care
- Diversity

Candidates are required to pledge to advance claims, support and promote policies and changes towards achieving positive change in all our goals. Bodily autonomy for women, represented simply by the Choice, has been a primary aim and focus for many years.

CHOICE

We believe women must have control over their own bodies and choices in their lives.

Reproductive freedom empowers women and men to choose if, when and how to begin the important journey into parenthood, without fear of discrimination, coercion or violence.

EQUAL PAY

We believe society needs to increase the value it places on the work of women – both in the paid workforce and in the home. We believe in challenging long held perceptions of the inferiority of "women's work", particularly in the provision of care to vulnerable people in our society like children, young people, the disabled and elderly.

We believe the difference in the nature and way women work, including time out for caring, should not lead to significantly lower wages or superannuation for women.

EARLY CHILDHOOD EDUCATION & CARE

We believe work-life balance is crucial to women, men and families. For women and men to achieve fulfilment professionally and personally, they need affordable, quality, flexible early childhood education & care for their children.

EQUITY

We strongly believe in the right of every woman to enjoy equal rights and privileges before the law, regardless of sexual orientation and gender identity. This is because equality is a fundamental human right that should be enjoyed by all.

DIVERSITY

We believe democracy is enhanced through the diversity of people participating in it. More women in parliament, on corporate boards and in our courts lead to greater diversity of views and therefore

better public policy outcomes. Women are a diverse group and considering the needs of all kinds of women is essential.

SUMMARY

EMILY's is committed to pushing for legislative equality for women in Australia. Legislation varies substantially throughout the Australian jurisdictions, which is seemingly an artifact of the times when access to abortion was first passed in that state or territory, and whether the legislation has ever been reviewed.

EMILY's is also committed to ensuring actual, as opposed to the theoretical, access to abortion, which has been achieved in all states and territories through legislation. EMILY's is pushing for recognition, and removal, of all barriers to free, easy and equitable access to services.

Firstly, legislative equalisation.

Equal access to legal, safe abortion services for all women in Australia. That means ensuring abortion on demand is available to all women up to at 22/24 weeks in all jurisdictions. The enforcement of safe access zones wherever the services are provided. And ensuring equality of service accessibility for late term abortions, that is with the approval of two doctors.

And secondly, real access to free medical and surgical abortion services.

All health services receiving public funding should be providing access to medical and/or surgical terminations as part of their funding agreement. Tertiary facilities should provide all services, primary clinics at least medical terminations.

Abortions must be fully funded through Medicare. Appropriately supported video consultation services [with onsite clinical support as required], should be available for all stages of consultation services, up to and including the provision of prescriptions for contraception or termination.

Where the required service is not available locally, then the travel and accommodation of the woman [and her support] must be provided [fully funded] by additional government service options.

It is unacceptable that in Australia access to appropriate reproductive health services is not simple, accessible and free.

EMILY's does not seek to comment on the barriers of cultural, language, disability, ethnicity, race, religion, or other vulnerable people. This is not because we think they are unimportant, but because we believe there are organisations and individuals who will bring significantly more expertise and understanding of these matters.

SUBMISSION

Access to sexual and reproductive healthcare is crucial for people in upholding their reproductive rights and bodily autonomy. It is about fundamental human rights: choice, bodily autonomy, empowerment, and freedom from coercion and violence.

The outrageous Roe v Wade decision from the USA has prompted Australian women to reflect on the various states of legality applicable across all jurisdictions in Australia and importantly to start a loud conversation about the actual access to services.

Legislation

Without running deeply into history, the principles established by the Menhennitt ruling in Victoria in 1969 which provided protection against unlawful termination if the ‘accused held an honest belief’ that it was ‘necessary and proportionate’ to the risk – necessary to protect the mother from serious danger to her life, health or mental wellbeing, became arguably a default position as the effective premise or understanding on which legislative access to abortion was available with the consent/ signatures of doctors. That is the premise that a woman’s life, physical, or mental health were at risk if the pregnancy continued and that someone else [doctor and/or judge] held the power to determine whether or not she could access an abortion.

The first state to make legislative change was Western Australia in 1998, fostered by proud EMILY’s Foundation Member Cheryl Davenport. The legislation still left abortion as unlawful under criminal law but provided for ‘justified’ exemptions under the Health Act.

The change in WA led to slow changes across the country requiring nearly 25 years for reasonable access for women in all states and territories. Effectively termination on demand, despite some significant hurdles, exists in all jurisdictions to some extent.

We note in contrast, the relative speed at which safe access zone legislation was taken up throughout Australia. Following its first introduction in Tasmania in 2013, by another proud EMILY’s MP, legislation providing safe passage without fear of harassment or intimidation to reproductive health services is now available throughout Australia. Most providing for exclusion zones of 150m.

The removal of abortion from all criminal codes has only recently been achieved, the last in South Australia this year. While we understand many of the reasons for jurisdictional variations, EMILY’s believes that these should be largely, if not completely, removed.

Across Australia the legislative positions vary significantly by jurisdiction: from access with approval of multiple doctors and only up to 16 weeks gestation, to access on demand up to 24 weeks, with approval by two doctors not required until after 24 weeks. All jurisdictions have removed abortion from their criminal codes and have instituted safe access zones around clinic.

First, women must have access to abortion on demand up to 24 weeks in all states and territories

Additional support for a woman’s decision from medical practitioners / specialists should only be required where her life is in danger, or the life of the foetus is a threat to the continuing pregnancy. Where there are any abnormalities or concerns, any decision by the woman should be supported in the manner which first and foremost best supports her health.

EMILY’s strongly believes that abortion is a woman’s right to access on demand. All people have the right to bodily autonomy. A pregnant woman should be appraised of all her options, just as she would be if seeking any other medical assistance/diagnosis. They must include medical and surgical options at her choice without legislative restriction. Freedom of reproductive health and wellbeing is a human right.

Access

EMILY’s applauds the ACT Government for their announcement to fully fund all medical and surgical terminations for territory residents, including those without a Medicare card, by the middle of 2023.

The legislative ‘permission’ or choice to access a legal medical or surgical termination does not constitute choice where there are no services, or where costs and/or distances are prohibitive. This is something that must change.

Cost is currently a significant barrier to women's access to abortions. The ACT decision will, for Canberrans, remove that barrier for termination up to 16 weeks.

EMILY's notes that currently Marie Stopes [reportedly] provides most services in Canberra, with some provided by Canberra Hospital. The ACT is not a large place, and the lack of availability of abortion at relevant health services should not present too much a problem. But EMILY's submits that as public money will find the full payment of these services, that those services in receipt of public dollars should provide the services required by the public, in accordance with the service levels at that facility.

Access to medication induced termination is extremely restricted, not by legislation but because less than 10% [reportedly] of GPs have undertaken the required training. Marie Stopes provides access, possible the majority, to medical terminations. They also provide online training for doctors and pharmacists to enable the prescribing and dispensing of these medications. But the take up of training is clearly extremely low and hinders accessibility.

EMILY's submits that the Government should liaise with all stakeholders to determine the actual barriers to the take up of the requisite training.

Beyond 16 Weeks

Terminations beyond 16 weeks are not covered by the recent funding announcement made by Government. A Canberran must travel to Sydney to access the Marie Stopes Sydney clinic for an abortion beyond 16 weeks.

If legislative reform doesn't enable abortions to be performed in the ACT beyond 16 weeks, then we submit that the ACT Government should consider funding arrangements for travel, accommodation and, of course, all medical/surgical out of pocket expenses.

To only fully fund services for all women for pregnancies up to 16 weeks would be an appalling inequity. Not only would a woman faced with all the difficulties of a later term decision, frequently because of other substantial barriers and/or potential medical complications, but they would also face all the costs of the termination, plus travel and accommodation costs. The cost barrier alone would be prohibitive for many women. And they would be the only residents facing such costs.

EMILY's submits that in addition to fully funding medical/ surgical cost, the Government should provide options to fully fund travel and accommodation for the woman and a support person, where required.

For comment or clarification please contact **Pamela Anderson, CEO EMILY's List Australia** ceo@emilyslist.org.au or **Leigh Svendsen, National Co-Convenor EMILY's List** 0418 538 989.