



Department for Health and Wellbeing

Response to SALRI report

*Abortion: A Review of
South Australian Law*

November 2019

South Australian Law Reform Institute (SALRI) report 'Abortion: A Review of South Australian Law'

The South Australian Law Reform Institute at the University of Adelaide Law School has completed an independent report, examining South Australian Laws relating to abortion, 'Abortion: A Review of South Australian Law and Practice' dated October 2019.

The Department for Health and Wellbeing (DHW) has reviewed this report and this document outlines a response to this report.

In brief, SALRI inquired into and reported on recommendations on:

1. The effectiveness of current law, practices and services in South Australia relating to the medical termination of pregnancy, in particular the availability and safety of services;
2. How the current legal position may be amended to: remove offences relating to the medical termination of pregnancy pursuant to Division 17 of the CLCA, make recommendations for legislative reform based on best clinical practice for the lawful regulation of medical termination of pregnancy and, ensure reasonable availability and access to safe medical termination of pregnancy services; and
3. Any other relevant matters.



Department for Health and Wellbeing (DHW) Responses to Recommendations

The SALRI report entitled 'Abortion: A Review of South Australian Law and Practice' (the Report) proposes 66 recommendations which have been individually considered by the DHW and detailed in Table 1 of this response.

In summary the vast majority of recommendations are accepted by DHW, with 15 recommendations requiring deference to the Crown for specific legal advice to ensure the intended outcome is achieved in any proposed new legislation.

Two recommendations (numbers 17 and 18) suggest changes which are outside the jurisdictional control of South Australia and these are noted in Table 1.

Recommendations 21 to 25 focus on the issue of whether the law should stipulate the type and number of health practitioners required to be involved with the delivery of an abortion and at what gestation. Recommendations 21 and 23 are mutually exclusive options and Recommendation 21 is not accepted. Recommendation 23 is partially accepted. Individual responses to Recommendations 21 to 25 are provided in Table 1. The following summary points should be noted regarding this issue from a clinical practice perspective;

- > A suitably qualified and credentialed health practitioner should be allowed to provide a medical abortion up to 63 days into gestation. This could include medical practitioners, nurses or midwives. Legislative change will be required to allow prescribing of relevant drugs by nurses and midwives.
- > Any surgical abortion at any gestation (which includes all abortions after 63 days) needs to be performed by a suitably qualified and credentialed medical practitioner with an appropriate scope of clinical practice.
- > DHW recommends that after 22 weeks and 6 days gestation, that an abortion be performed by a suitably qualified and credentialed medical practitioner with an appropriate scope of clinical practice only after consultation with a similarly qualified and credentialed medical practitioner with an appropriate scope of clinical practice. The gestation of 22 weeks and 6 days most closely aligns with current clinical practice.
- > In an emergency situation (to save a women's life or the life of another fetus) an abortion should only be provided by a medical practitioner.

In addition, Recommendation 45 focuses on the requirement of a health practitioner who holds a conscientious objection to provide or advise about an abortion to provide timely transfer of care or provide information to the patient regarding a willing health practitioner or service. In this regard, DHW recommends strengthening this recommendation in any new law to require not only timely transfer of care but also direct practitioner-to-practitioner referral. This constitutes standard clinical practice in most other areas of medical care provision.

In terms of impact of the Report's recommendations on health services in South Australia, the following observations are made:

- > The legislative changes proposed are likely to result in greater equity of health services for women in South Australia.
- > The recommendations are likely to result in a shift of abortion to occur earlier in pregnancy and for medical abortions, from hospitals to primary health care settings.



- > Because the recommendations include provision for health practitioners other than medical practitioners to provide medical abortions, training and accreditation of nurses and midwives will be required, along with changes to the current legislation relating to prescribing rights.

It is important to note that the statement in the report; 'The Women's and Children's Hospital in North Adelaide, which is the location of central Adelaide's public obstetric services, no longer providing abortion services on site and transferring all abortion services to the PAC and Queen Elizabeth Hospital' (15.1.5, page 327) is incorrect. The Women's and Children's Hospital still provide abortions for pregnancies where there are genetic and fetal anomalies.



Table 1. Department for Health and Wellbeing Responses to the SALRI Report ‘Abortion: A Review of South Australian Law’

SALRI Recommendation		Department for Health and Wellbeing (DHW) Response	
No.		Accept Amend Oppose Defer*	Amendments and clarifying comments
1	SALRI recommends that abortion should be treated as a health issue rather than as a criminal law matter and a woman’s autonomy and best health care should be respected and promoted.	Accept	DHW accepts the recommendation of abortion being treated as a health issue.
2	SALRI recommends that there is a review of the operation and effectiveness of any new law in South Australia in relation to abortion five years after its commencement, given the ongoing medical, clinical and other changes in this area.	Accept	DHW accepts a review of any new law in South Australia five years after its commencement.
3	SALRI recommends that abortion should be largely (though not totally) removed from the criminal law, especially the <i>Criminal Law Consolidation Act 1935</i> (SA), and placed in health law and practice.	Accept	DHW accepts the recommendation that involvement in abortion by unqualified persons is retained in criminal law, and agrees that largely abortion should be placed in health law and practice.
4	SALRI recommends that sections 81, 82 and 82A of the <i>Criminal Law Consolidation Act 1936</i> (SA) should be repealed and replaced with the appropriate provisions recommended below in a standalone Act or the most suitable Act (though not the <i>Criminal Law Consolidation Act 1936</i> (SA)).	Accept / Defer	DHW accepts the repeal and replacement of sections 81, 82 and 82A of the <i>Criminal Law Consolidation Act 1936</i> (SA) in principle and defers to the Crown Solicitor’s Office for specific legal advice regarding the most suitable Act.
5	SALRI recommends that any new law in South Australia should provide that a woman who consents to, assists in, or performs an abortion on herself does not commit an offence (either in the criminal law or relevant health law).	Accept	DHW accepts the recommendation that a woman who consents to, assists in or performs an abortion on herself does not commit an offence.
6	SALRI recommends that any new law in South Australia should provide that it should not be possible for a woman to be charged as an accessory to an unlawful abortion performed upon her by an unqualified person.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor’s Office for specific legal advice.
7	SALRI recommends that a woman should not be liable to any legal sanction if she knowingly permits a health practitioner to perform an abortion upon her.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor’s Office for specific legal advice.
8	SALRI recommends that, to avoid any doubt, any new offence in South Australia should not extend to the performance of an abortion or assisting in the performance of an abortion by a medical or health practitioner within the scope of their practice.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor’s Office for specific legal advice.

9	SALRI recommends that, to avoid any doubt, any new law in South Australia should provide that, in deciding any issue about a health practitioner's professional conduct in relation to the performance of an abortion or assisting in the performance of an abortion, regard may be had to all of the circumstances surrounding the procedure, including any issue as to authorisation and scope of practice.	Accept	DHW accepts this recommendation and the use of the term health practitioner to allow for potential changes to clinical scope of practice, including appropriately credentialed registered nurses or midwives.
10	SALRI recommends that a new offence should be added to the <i>Health Care Act 2008</i> (SA) or the most appropriate Act (though preferably not the <i>Criminal Law Consolidation Act 1936</i> (SA)) to provide that an unqualified person who either performs, or who assists in the performance of, an abortion, commits a crime.	Accept / Defer	DHW accepts criminal sanctions for unqualified persons involved in abortion in principle and defers to the Crown Solicitor's Office for specific legal advice.
11	SALRI recommends that, for the purposes of the new proposed offence in Recommendation 10 above, an 'unqualified person' should be defined to mean, in relation to performing an abortion or assisting in the performance of an abortion, a person who is not a health practitioner.	Accept	DHW accepts this definition of an unqualified person.
12	SALRI recommends that the new offence proposed in Recommendation 10 should be a major indictable offence with a maximum penalty of seven years imprisonment. Proceedings for any such offence should only be able to be instituted by, or with the consent of, the Attorney-General or the Director of Public Prosecutions.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.
13	SALRI recommends that the present requirement for two medical practitioners to personally examine the patient does not account for current clinical practice, including telehealth and other remote forms of consultation, and should be removed.	Accept	DHW accepts the recommendation to both remove the requirement for two medical practitioners and the requirement to personally examine a pregnant woman. In current medical practice, there are regulatory structures in place that ensure the safety and quality of services provided by medical practitioners and other methods of consultation (e.g., telehealth) that are prohibited by this clause. In addition, with advances in medicine, current clinical practice does not require physical examination to confirm pregnancy, this now being done with ultrasound and blood assays. This recommendation will improve access to abortion services, in particular for South Australian women in rural areas.
14	SALRI recommends that any new law in South Australia should clarify that the performance of an abortion should not necessarily be confined to a medical practitioner but should (subject to national health law and practice) refer to a health practitioner.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.

15	SALRI recommends that any new law in South Australia should provide that a health practitioner may assist another health practitioner to perform an abortion, in the scope of their health practice. A reference to assisting in the performance of an abortion by a health practitioner includes dispensing, supplying or administering a medical abortion drug.	Accept	DHW accepts this recommendation.
16	SALRI recommends that Recommendation 15 should not apply to an abortion that the assisting medical or health practitioner knows, or ought reasonably to know, is being performed outside the scope of a health practice.	Accept	DHW accepts this recommendation.
17	SALRI recommends that the present additional Commonwealth administrative requirements relating to the authorisation and/or registration of medical and other health practitioners to prescribe or dispense MS-2 Step should be removed.	Not Applicable	Whilst DHW appreciates the findings of the SALRI consultation, this decision lies outside jurisdictional control of South Australia, being the responsibility of the Therapeutic Goods Administration.
18	SALRI recommends that the Commonwealth should add a Medicare identification number for appointments related to both abortion consultations and abortion procedures, as well as the dispensing of MS-2 Step for pharmacists, to reflect the work involved in these appointments and to better collect appropriate data sets.	Not Applicable	This recommendation lies outside the jurisdictional control of South Australia.
19	SALRI recommends that the present requirement in South Australia that an abortion can only be carried out or administered at a 'prescribed hospital' does not account for current clinical practice and should be removed.	Accept	DHW accepts this recommendation. Allowing medical abortions from appropriately qualified health practitioners to be conducted in the community would improve access to abortion services, in particular for South Australian women in rural areas.
20	SALRI recommends that, whatever option is adopted, any new law in South Australia should not provide any specified criteria for access to lawful abortion.	Accept	DHW accepts this recommendation.
21	SALRI recommends that, consistent with Recommendation 2, the relevant law in South Australia should be amended, consistent with general health law and practice, to provide that an abortion can be undertaken at any gestational stage with the involvement of one health practitioner.	Oppose	DHW opposes Recommendation 21 and partially accepts Recommendation 23 in preference to Recommendation 21. Please refer to the accompanying Response to the SALRI Report for further detail.
22	SALRI recommends that the present rebuttable upper limit of 28 weeks for an abortion set out in s 82A of the <i>Criminal Law Consolidation Act 1936</i> is inappropriate and no upper limit for a lawful abortion should be provided for in any new law.	Accept	DHW accepts this recommendation.
23	SALRI recommends that, in the alternative to Recommendation 21, the relevant law in South Australia should provide that up to 24 weeks gestation an abortion can be performed by one health practitioner but, after 24 weeks gestation, consistent with Recommendation 2 and recognising the woman's autonomy, an abortion may be performed by a medical practitioner, but only after that medical practitioner has consulted with another medical practitioner and both are of the view that the proposed procedure is medically appropriate.	Partially accept / Amend	DHW accepts that a gestational age should be set whereby after this time an abortion can only be performed by a medical practitioner after consultation with another medical practitioner (both being of the view that the proposed procedure is medically appropriate). However, DHW recommends that the gestational age for these requirements is 22 weeks plus 6 days, not 24 weeks. In addition the medical practitioners involved must be suitably qualified and credentialed and hold an appropriate scope of clinical practice. Please refer to the accompanying Response to the SALRI Report for further detail.

24	SALRI recommends that a health practitioner may, in an emergency, perform an abortion on a woman at any time if the health practitioner considers it is necessary to perform the procedure to save the woman's life or, in the case of multiple pregnancy, another fetus.	Oppose	DHW does not support this recommendation. As noted in the accompanying response to the SALRI Report, DHW recommends that only a medical practitioner may, in an emergency, perform an abortion on a woman at any time if the medical practitioner considers it is necessary to save the life of a woman or another fetus.
25	SALRI recommends that any new law in South Australia should not include a requirement for an abortion (including a late term abortion) to be approved by a second specialist medical practitioner (such as a gynaecologist) or a panel or committee.	Accept	DHW accepts this recommendation that the requirement for approval by a second medical practitioner does not require a specialist medical practitioner or a panel or committee. However medical practitioners providing this second consultation and approval need to be suitably qualified and credentialled and hold an appropriate scope of clinical practice.
26	SALRI recommends that any new abortion law in South Australia should not contain mandated information provisions.	Accept	DHW accepts this recommendation which treats abortion as a health issue under existing general health law and practice. DHW has taken this recommendation to refer to any possible proposal to mandate the provision of specific information to women about abortion and is not a reference to the current requirement of notification of abortions to the Abortion Reporting Committee (the subject of Recommendation 60).
27	SALRI recommends that there should not be any further requirements beyond existing general health law and practice in any new law in South Australia for informed consent by the woman to have an abortion.	Accept	DHW accepts this recommendation which treats abortion as a health issue in line with existing general health law and practice.
28	SALRI recommends that any new law in South Australia should not contain a compulsory delay or waiting period before an abortion may be lawfully performed.	Accept	DHW accepts this recommendation which aligns with appropriate clinical care.
29	SALRI recommends that high-quality, impartial and non-directive counselling should be available to any woman who chooses to access it and that any such counselling should be provided within professional health settings by appropriately trained counsellors who are members, or eligible for membership, of their relevant health professional body.	Accept	DHW accepts the recommendation of availability of non-directive counselling to any woman who chooses to access it, which places decision making with the woman concerned.
30	SALRI acknowledges the benefit of impartial and non-directional counselling in the context of abortion, but it should be for the woman concerned to decide on receiving or undertaking any counselling and who she chooses to see, or not see. SALRI recommends any new law should not contain a requirement for mandatory counselling or mandatory referral to counselling.	Accept	DHW accepts the recommendation of availability of non-mandatory counselling which places decision making with the woman concerned and is not prescribed by law.
31	SALRI acknowledges concerns about the ambiguity that exists in the promotion and advertising of abortion-related counselling services. Given the varying attitudes to abortion held by counselling service providers, SALRI recommends that counselling services should be required to be transparent about their underlying views when advertising and offering counselling services related to abortion, in order to enable the woman to make an informed decision about any counselling she may or may not choose to undertake.	Accept	DHW accepts the recommendation of transparency of views on abortion for counselling services related to abortion.
32	SALRI supports the notion that counselling services should be culturally sensitive,	Accept	DHW accepts the recommendation for culturally sensitive

	appropriate and competent for all cultural groups. In particular, SALRI recommends that counsellors providing abortion-related counselling to Aboriginal women have undertaken cultural awareness training, are sensitive to cultural and contextual factors, and the values systems and authority structures of Aboriginal communities, and provide services in a flexible manner so as to meet the cultural needs of Aboriginal women who may choose to access high-quality, impartial and non-directive counselling.		counselling, in particular for Aboriginal women.
33	SALRI recommends that the present disability specific provision in s 82A of the Criminal Law Consolidation Act 1935 (SA) as to when a lawful abortion is available should be removed, and should not be included in any new law.	Accept	DHW accepts this recommendation to remove disability specific provisions surrounding lawful abortion.
34	<p>SALRI recommends that access to a clinical genetics service should be available to all women where there is a family history of genetic conditions or where fetal abnormality has been detected through prenatal screening where a genetic cause is possible. It should be for the woman concerned to decide on undertaking any genetic counselling however, and SALRI therefore recommends any new law should not contain a requirement for mandatory genetic counselling or a mandatory referral to a clinical genetics service. The promotion and provision of genetic counselling could be further enhanced through:</p> <ol style="list-style-type: none"> a. the development or amendment of current medical frameworks and/or guidelines relating to the effective and timely referral to a clinical genetics service, endorsing best clinical practice; b. raising community awareness about clinical genetics services and the role of a genetic diagnostics and counselling service; c. increasing access for all pregnant women to information about clinical genetics services and how to access such services; and d. ensuring adequate resources are available to meet a likely increase in clinical genetic diagnostics and counselling service requests arising from changes to guidelines/frameworks and greater community understanding of such services. 	Accept	DHW accepts this recommendation.
35	SALRI supports inclusive and accessible health care for all, as well as principles of autonomy. As such, SALRI recommends that counsellors providing abortion-related counselling to women with disabilities should be knowledgeable about disability awareness to ensure a sensitive, safe and inclusive environment for women with disabilities who may choose to access high-quality, impartial and non-directive counselling.	Accept	DHW accepts this recommendation.

36	SALRI notes that any suggestion of gender selective abortion raises concern, but any legislative prohibition on gender selective abortion is unnecessary, as well as likely to be unenforceable, and therefore recommends that there should be no legislative prohibition in South Australia on gender selective abortion.	Accept	DHW accepts this recommendation as legislative prohibition of gender selective abortion is likely to be unenforceable.
37	SALRI recommends that the present requirement that a woman must have been resident in South Australia for a period of two months prior to the procedure serves no useful purpose and should be removed.	Accept	DHW accepts this recommendation. The existing residency clause provides a barrier to access abortion services to women who are recent arrivals to South Australia, international students and women located nearby jurisdictional borders.
38	SALRI recommends that where a surgical abortion is unable to be performed due to a lack of service provision in a woman's local area and she is unable to access an early medical abortion due to: <ul style="list-style-type: none"> a) her stage of gestation; and/or b) it being counter indicated as assessed by her treating health practitioner; then the woman should be eligible to access the Patient Assistance Transport Scheme (PATS) to travel to the nearest location where the surgical abortion can be performed.	Accept	DHW accepts the above recommendation in line with abortion being treated as a health issue.
39	SALRI notes the benefit of telehealth medicine to address rural, regional and remote access issues in relation to abortion and recommends that any new law in South Australia should not prevent or restrict the use of telehealth medicine when appropriate, based on current clinical practice and procedures.	Accept	DHW accepts any new laws supporting the use of telehealth medicine when appropriate. With modern health care, pathways such as consulting using telemedicine and abortion methods that are no longer surgical abortion services will be more accessible and cost-effective. Studies have shown that telemedicine provision is not inferior to in-person provision for medical abortions of pregnancy.
40	SALRI recommends that the SA Health website be maintained on an ongoing basis so as to provide South Australians with reliable and impartial information on abortion procedures and access to abortion services, including contact information for advisory services, counselling support and medical centres.	Accept	DHW accepts this recommendation, including the publishing of tabulated annual abortion statistics.
41	SALRI notes the particular issues in South Australia relating to Aboriginal communities and recommends that practitioners who prescribe MS-2 Step, or hospitals which undertake abortion procedures, should have access to pamphlets, literature or referral sources which can be supplied to Aboriginal women to ensure they have access to culturally appropriate information and support.	Accept	DHW accepts this recommendation to ensure that reference materials are culturally appropriate.
42	SALRI recommends that all health services, including hospitals and specialist clinics, ensure that staff have undertaken cultural awareness training to ensure a culturally safe environment for Aboriginal women attending the service.	Accept	DHW accepts cultural awareness training for staff in public hospitals and clinics to ensure a culturally safe environment is provided for all women, including Aboriginal women.
43	SALRI recommends that conscientious objection on the part of a health practitioner, in relation to performing an abortion or assisting in the performance of an abortion, should be respected and explicitly included in any new law and therefore no medical or health practitioner should be under a duty to perform or assist in performing an abortion, save for a medical emergency.	Accept	DHW accepts this recommendation.

44	SALRI recommends that conscientious objection should be restricted to individuals who are directly performing an abortion or assisting in the performance of an abortion, and it should not apply to other parties such as administrators, corporate services staff or to any provision of after care.	Accept	DHW accepts the restriction of conscientious objection to only individuals performing or assisting in an abortion.
45	SALRI recommends that any new law in South Australia should provide that a health practitioner who holds a conscientious objection to performing or assisting in the performance of an abortion, making a decision about whether an abortion should be performed on a woman or offering advice in relation to the potential performance of an abortion, must provide timely transfer of care or provide information to the patient regarding a willing health practitioner or health service.	Partially accept / Amend	DHW partially accepts this recommendation, and further recommends that any new law should provide for not only timely transfer of care but also direct practitioner-to-practitioner referral, which constitutes standard clinical practice in most other areas of medical management. DHW does not accept that an alternative or equivalent to timely transfer is the provision of information to the patient regarding a willing health practitioner or health service.
46	<p>SALRI recommends that any new law in South Australia should make it clear that if a health practitioner has a conscientious objection in relation to an abortion (or potential abortion), then that health practitioner is required to:</p> <ul style="list-style-type: none"> a. disclose their conscientious objection to the person; and b. if the request is made by the woman, effectively transfer the care of the woman, or provide her information by either: <ul style="list-style-type: none"> i. transferring care to another health practitioner who, to the first practitioner's knowledge, can provide the requested service and does not hold a conscientious objection to the performance of the abortion; or ii. providing information on a health service provider at which, to the first practitioner's knowledge, the requested service can be provided by another health practitioner who does not have a conscientious objection to the performance of the abortion. 	Partially accept / Amend	DHW partially accepts this recommendation but as per notes included in relation to Recommendation 45, DHW does not accept the provision of information about alternative providers/services to women as an alternative or equivalent to active transfer of care by the health practitioner who holds a conscientious objection in relation to an abortion.
47	SALRI recommends that a health practitioner's refusal to provide or participate in treatment or a procedure must be done in a way to minimise disruption to patient care and must never be used to intentionally impede a patient's access to an abortion.	Accept	DHW accepts this recommendation.
48	SALRI recommends that any new law in South Australia should provide that, in deciding any issue about a health practitioner's professional conduct, regard may be had as to whether the practitioner contravenes the provisions in Recommendations 45, 46 and 47 above.	Accept	DHW accepts this recommendation.

49	SALRI recommends that any new law in South Australia should include safe access zone provisions around premises where abortion services are provided and that the purpose of these provisions is to protect the safety and welfare, and respect the privacy and dignity, of people accessing the services and employees or other persons who need to access those premises in the course of their duties or responsibilities.	Accept	DHW accepts the inclusion of safe access zones in any new laws to protect the safety and welfare, and respect the privacy and dignity of staff, patients and any persons accessing those premises.
50	SALRI recommends that any new law in South Australia should provide that a place will be within the safe access zone of premises at which the service of providing an abortion is ordinarily undertaken if it is in the premises or not more than the prescribed distance from an entrance to the premises.	Accept	DHW accepts this recommendation.
51	SALRI recommends that any new law in South Australia should provide that the prescribed distance is 150 metres.	Accept	DHW accepts the prescribed distance of 150m which is consistent with legislation in other Australian jurisdictions.
52	SALRI recommends that any new law in South Australia should provide that the operation of the safe access zone is not limited to the hours of operation of the premises and should be 24 hours a day and seven days a week, with no exceptions.	Accept	DHW accepts this recommendation.
53	SALRI recommends that safe access zones should be automatically established by legislation and not be by Ministerial decree.	Accept	DHW accepts this recommendation.
54	SALRI recommends that a new offence be established in South Australia to provide that it is an offence to engage in prohibited conduct in the safe access zone for an abortion services premises and 'prohibited conduct' should be defined to mean intimidation, obstruction, impeding access, harassment or other conduct that relates to abortions or could reasonably be perceived as relating to abortions and would be visible or audible to another person entering, leaving or in the premises; and would be reasonably likely to deter a person from entering or leaving, or from requesting, undergoing, performing or assisting in the performance of, an abortion.	Accept	DHW accepts this recommendation.
55	SALRI recommends that a new offence should be established in South Australia to provide that it is an offence for a person to make, publish or distribute a restricted recording of another person without the other person's consent and without reasonable excuse. A 'restricted recording' should be defined to mean an audio or visual recording of a person while the person is entering, leaving or in an abortion services premises, and which contains information that identifies, or is likely to lead to the identification of, the person being recorded.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.
56	SALRI recommends that there should be a maximum penalty of one year's imprisonment and/or an appropriate fine for each of the offences in Recommendations 54 and 55 above.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.
57	SALRI recommends that any new law in South Australia relating to abortion should not include a new specific anti-coercion offence.	Accept	DHW accepts this recommendation in conjunction with Recommendation 58.

58	SALRI acknowledges that reproductive coercion is a form of family violence and recommends that 'reproductive coercion' should be added to the definition of family violence in s 8 of the <i>Intervention Orders (Prevention of Abuse) Act 2009</i> (SA) and/or elsewhere.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.
59	SALRI recommends that no incidental changes are necessary in South Australia to the laws that govern consent to medical treatment, substitute decision-making for adults with impaired capacity, consent to medical treatment for minors or the regulation of health practitioners, public hospitals and health services and licensed private health facilities.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.
60	SALRI acknowledges the value of the data previously collected by SA Health relating to abortions in South Australia and recommends the collection of data continue with the following changes: <ul style="list-style-type: none"> a. Data collected must not include names and addresses of patients; b. Identification of Aboriginality should be collected; c. Collection of data should be permitted to occur in either hard copy or electronic form as directed by SA Health and should not require signatures of health practitioners involved in the procedure, so as to allow the data to be reported to SA Health by administration staff where appropriate. d. Data should be able to be utilised in the same manner, and with the same ethical and legal approval, as all other data sets collected by SA Health or other relevant agency. 	Amend	Abortion data as currently collected can be used to monitor trends and complications, provide insight into reducing teen abortions and assess equitable access (e.g., for rural women). DHW recommends that Recommendation 60 part (a) is amended to also collect patient suburb and postcode. Collection of patient suburb and postcode will allow the collected data to be used to inform service provision and planning, and will allow the continued evaluation of equitable access for rural women. DHW also support parts (b), (c) and (d) within Recommendation 60. In line with other legislated data collections and as specified in the <i>Health Care Regulations 2008</i> , consideration should be given to reporting of abortion data to the relevant health Minister, rather than through the Chief Executive of SA Health. A consequence of de-identified data being reported is that the collection will not be able to be linked to any other collection for planning or research purposes.
61	SALRI recommends that historical data collected by SA Health prior to any legislative changes be de-identified and permitted to be used in the same manner, and with the same ethical and legal approval, as other data sets held by SA Health. SALRI further recommends that the annual Report to Parliament should be discontinued and replaced with such annual data to be made public in an appropriate manner.	Accept	DHW accepts the use of de-identified, previously collected data and also accepts making public the annual report on abortion statistics.
62	SALRI recommends that gendered terms such as 'woman' in the present law should be replaced.	Accept	DHW accepts this recommendation.
63	SALRI notes that the offence of child concealment falls outside SALRI's terms of reference and recommends that the offence of child concealment in s 82 of the <i>Criminal Law Consolidation Act 1936</i> (SA) should be separately considered by the Attorney-General's Department in consultation with interested parties.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.

64	SALRI recommends that no change to the law in South Australia is necessary to the definition of 'harm' or 'serious harm' in s 21 of the <i>Criminal Law Consolidation Act 1936</i> (SA) to cover the situation of harm or the loss (other than in the course of a medical procedure) of the fetus of a pregnant woman, whether or not the woman suffers any other harm.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.
65	SALRI recommends that consequential amendments to other South Australian laws should be made where necessary and desirable in light of the repeal of ss 81, 82 and 82A of the <i>Criminal Law Consolidation Act 1936</i> and the potential introduction of the new offence in Recommendation 10 relating to the performance of an abortion by an unqualified person.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.
66	SALRI recommends that, for the avoidance of any doubt, any common law offence relating to abortion should be abolished.	Accept / Defer	DHW accepts this recommendation in principle and defers to the Crown Solicitor's Office for specific legal advice.

*Defer means to defer to the Crown Solicitor's Office for specific legal advice

For more information

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