

Passed by both Houses



New South Wales

Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2018

Clerk of the Parliaments



New South Wales

Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018

Act No , 2018

An Act to amend the *Public Health Act 2010* to provide for safe access zones around reproductive health clinics at which abortions are provided.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Health Amendment (Safe Access to Reproductive Health Clinics) Act 2018*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Public Health Act 2010 No 127

Part 6A

Insert after Part 6:

Part 6A Access to certain reproductive health clinics

98A Definitions

In this Part:

reproductive health clinic means any premises at which medical services relating to aspects of human reproduction or maternal health are provided, but does not include a pharmacy.

safe access zone means:

- (a) the premises of a reproductive health clinic at which abortions are provided, and
- (b) the area within 150 metres of:
 - (i) any part of the premises of a reproductive health clinic at which abortions are provided, or
 - (ii) a pedestrian access point to a building that houses a reproductive health clinic at which abortions are provided.

98B Objects of Part

The objects of this Part are:

- (a) to ensure that the entitlement of people to access health services, including abortions, is respected, and
- (b) to ensure that people are able to enter and leave reproductive health clinics at which abortions are provided without interference, and in a manner that protects their safety and well-being and respects their privacy and dignity, including employees and others who need to access such clinics in the course of their duties and responsibilities.

98C Interfering with access of persons to reproductive health clinics

- (1) In this section:

interfere with includes harass, intimidate, beset, threaten, hinder, obstruct or impede by any means.
- (2) A person who is in a safe access zone must not interfere with any person accessing, leaving, or attempting to access or leave, any reproductive health clinic at which abortions are provided.
- (3) A person who is in a safe access zone must not, without reasonable excuse, obstruct or block a footpath or road leading to any reproductive health clinic at which abortions are provided.

Maximum penalty:

- (a) for a first offence—50 penalty units or imprisonment for 6 months, or both, or
- (b) for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.

98D Causing actual or potential distress or anxiety to persons in safe access zones

- (1) A person who is in a safe access zone must not make a communication that relates to abortions, by any means, in a manner:
- (a) that is able to be seen or heard by a person accessing, leaving, attempting to access or leave, or inside, a reproductive health clinic at which abortions are provided, and
 - (b) that is reasonably likely to cause distress or anxiety to any such person.
- Maximum penalty:
- (a) for a first offence—50 penalty units or imprisonment for 6 months, or both, or
 - (b) for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.
- (2) This section does not apply to an employee or other person who provides services at the reproductive health clinic.

98E Capturing and distributing visual data of persons in safe access zone

- (1) A person must not intentionally capture visual data of another person, by any means, without that other person's consent if that other person is in a safe access zone.
- Maximum penalty:
- (a) for a first offence—50 penalty units or imprisonment for 6 months, or both, or
 - (b) for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.
- (2) A person must not publish or distribute a recording of another person without that other person's consent if the recording:
- (a) was made while that other person was in a safe access zone, and
 - (b) contains particulars likely to lead to the identification of that other person.
- Maximum penalty:
- (a) for a first offence—50 penalty units or imprisonment for 6 months, or both, or
 - (b) for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.
- (3) This section does not apply to:
- (a) the operation of a security camera, for security reasons only, by or on behalf of a person operating a reproductive health clinic at which abortions are provided, or premises adjacent to or near such a reproductive health clinic, or
 - (b) a person employed or contracted to provide services at the reproductive health clinic at which abortions are provided, or
 - (c) a person otherwise acting for or on behalf of a person operating a reproductive health clinic at which abortions are provided, but only if the visual data is provided either to the person operating the clinic or to a police officer, or
 - (d) a police officer acting in the course of the officer's duties as a police officer if the officer's conduct is reasonable in the circumstances for the performance of those duties, or

- (e) a person who has another reasonable excuse.
- (4) In this section:
 - capture visual data* of another person means to capture moving or still images of the other person by a camera or any other means in such a way that:
 - (a) a recording is made of the images, or
 - (b) the images are capable of being transmitted in real time with or without retention or storage in a physical or electronic form, or
 - (c) the images are otherwise capable of being distributed.
 - distribute* means:
 - (a) communicate, exhibit, send, supply or transmit, whether to a particular person or not, or
 - (b) make available for access, whether by a particular person or not, or
 - (c) enter into an agreement or arrangement to do any thing mentioned in paragraph (a) or (b).

98F Exemptions from application of Part

- (1) This Part does not apply so as to prohibit:
 - (a) conduct occurring in a church, or other building, that is ordinarily used for religious worship, or within the curtilage of such a church or building, or
 - (b) conduct occurring in the forecourt of, or on the footpath or road outside, Parliament House in Macquarie Street, Sydney, or
 - (c) the carrying out of any survey or opinion poll by or with the authority of a candidate, or the distribution of any handbill or leaflet by or with the authority of a candidate, during the course of a Commonwealth, State or local government election, referendum or plebiscite.
- (2) This Part applies despite anything to the contrary in the following:
 - (a) Part 4 of the *Summary Offences Act 1988*,
 - (b) Part 14 of the *Law Enforcement (Powers and Responsibilities) Act 2002*.