



New South Wales

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

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is co-sponsored by the Hon P G Sharpe MLC and the Hon T J Khan MLC.

Overview of Bill

The object of this Bill is to provide for safe access zones around reproductive health clinics at which abortions are provided so as to protect the safety and well-being of, and respect the privacy and dignity of, those accessing the services provided at those premises as well as those who need to access those premises in the course of their employment.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Public Health Act 2010 No 127

Schedule 1 inserts the following provisions into the *Public Health Act 2010*:

- (a) **Proposed section 98A** inserts definitions used in the proposed Part. The term *safe access zone* is defined to mean the premises of a reproductive health clinic at which abortions are provided and the area within 150 metres of any part of the premises of a reproductive health clinic at which abortions are provided or of a pedestrian access point to a building that houses a reproductive health clinic at which abortions are provided.
- (b) **Proposed section 98B** specifies the objects of the proposed Part.

- (c) **Proposed section 98C** makes it an offence for a person who is in a safe access zone to:
- (i) interfere with any person accessing, leaving, or attempting to access or leave, any reproductive health clinic at which abortions are provided, or
 - (ii) obstruct or block a footpath or road leading to any reproductive health clinic at which abortions are provided.

In each case, the maximum penalty for the first offence is 50 penalty units (currently \$5,550) or imprisonment for 6 months, or both, and the maximum penalty for any second or subsequent offence is 100 penalty units (currently \$11,000) or imprisonment for 12 months, or both.

- (d) **Proposed section 98D** makes it an offence for a person who is in a safe access zone to communicate in relation to abortions in a manner 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 that is reasonably likely to cause distress or anxiety to any such person. The maximum penalty for the first offence is 50 penalty units or imprisonment for 6 months, or both, and the maximum penalty for any second or subsequent offence is 100 penalty units or imprisonment for 12 months, or both.

- (e) **Proposed section 98E** makes it an offence for a person to:
- (i) intentionally capture visual data of another person, without that other person's consent, if that other person is in a safe access zone, or
 - (ii) publish or distribute a recording of another person without that other person's consent if the recording was made while that other person was in a safe access zone and contains particulars likely to lead to the identification of that other person.

The maximum penalty for the first offence is 50 penalty units or imprisonment for 6 months, or both, and the maximum penalty for any second or subsequent offence is 100 penalty units or imprisonment for 12 months, or both.

- (f) **Proposed section 98F** provides that the proposed Part does not apply so as to prohibit conduct occurring in or around a church or other building ordinarily used for religious worship or outside Parliament House in Macquarie Street, Sydney or to prohibit 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. The provision also provides that the proposed Part applies despite anything to the contrary in other statutory provisions about public assemblies or protests.



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Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Public Health Act 2010 No 127	3



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

No. , 2018

A Bill for

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:

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1 Name of Act

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

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2 Commencement

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

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Schedule 1	Amendment of Public Health Act 2010 No 127	1
Part 6A		2
Insert after Part 6:		3
Part 6A	Access to certain reproductive health clinics	4
98A	Definitions	5
	In this Part:	6
	<i>reproductive health clinic</i> means any premises at which medical services relating to aspects of human reproduction or maternal health are provided, but does not include a pharmacy.	7 8 9
	<i>safe access zone</i> means:	10
	(a) the premises of a reproductive health clinic at which abortions are provided, and	11 12
	(b) the area within 150 metres of:	13
	(i) any part of the premises of a reproductive health clinic at which abortions are provided, or	14 15
	(ii) a pedestrian access point to a building that houses a reproductive health clinic at which abortions are provided.	16 17
98B	Objects of Part	18
	The objects of this Part are:	19
	(a) to ensure that the entitlement of people to access health services, including abortions, is respected, and	20 21
	(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.	22 23 24 25 26
98C	Interfering with access of persons to reproductive health clinics	27
	(1) In this section:	28
	<i>interfere with</i> includes harass, intimidate, beset, threaten, hinder, obstruct or impede by any means.	29 30
	(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.	31 32 33
	(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.	34 35 36
	Maximum penalty:	37
	(a) for a first offence—50 penalty units or imprisonment for 6 months, or both, or	38 39
	(b) for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.	40 41

98D	Causing actual or potential distress or anxiety to persons in safe access zones	1
(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:	2
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(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	4
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(b)	that is reasonably likely to cause distress or anxiety to any such person.	7
	Maximum penalty:	8
(a)	for a first offence—50 penalty units or imprisonment for 6 months, or both, or	9
		10
(b)	for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.	11
		12
(2)	This section does not apply to an employee or other person who provides services at the reproductive health clinic.	13
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98E	Capturing and distributing visual data of persons in safe access zone	15
(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.	16
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	Maximum penalty:	19
(a)	for a first offence—50 penalty units or imprisonment for 6 months, or both, or	20
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(b)	for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.	22
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(2)	A person must not publish or distribute a recording of another person without that other person’s consent if the recording:	24
		25
(a)	was made while that other person was in a safe access zone, and	26
(b)	contains particulars likely to lead to the identification of that other person.	27
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	Maximum penalty:	29
(a)	for a first offence—50 penalty units or imprisonment for 6 months, or both, or	30
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(b)	for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.	32
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(3)	This section does not apply to:	34
(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	35
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(b)	a person employed or contracted to provide services at the reproductive health clinic at which abortions are provided, or	39
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(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	41
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(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	45
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(e)	a person who has another reasonable excuse.	1
(4)	In this section:	2
	<i>capture visual data</i> 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:	3
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(a)	a recording is made of the images, or	5
(b)	the images are capable of being transmitted in real time with or without retention or storage in a physical or electronic form, or	6
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(c)	the images are otherwise capable of being distributed.	8
	<i>distribute</i> means:	9
(a)	communicate, exhibit, send, supply or transmit, whether to a particular person or not, or	10
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(b)	make available for access, whether by a particular person or not, or	12
(c)	enter into an agreement or arrangement to do any thing mentioned in paragraph (a) or (b).	13
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98F	Exemptions from application of Part	15
(1)	This Part does not apply so as to prohibit:	16
(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	17
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(b)	conduct occurring in the forecourt of, or on the footpath or road outside, Parliament House in Macquarie Street, Sydney, or	20
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(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.	22
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(2)	This Part applies despite anything to the contrary in the following:	26
(a)	Part 4 of the <i>Summary Offences Act 1988</i> ,	27
(b)	Part 14 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	28
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