

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

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

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**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*.