



New South Wales

Summary Offences Amendment (Safe Access to Reproductive Health Clinics) Bill 2017

Explanatory note

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

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 Summary Offences Act 1988** **No 25**

Schedule 1 inserts the following provisions into the *Summary Offences Act 1988*:

- (a) **Proposed section 11I** inserts definitions used in the other proposed provisions. The term *safe access zone* is defined to mean an area within a radius of 150 metres of a reproductive health clinic at which abortions are provided or within a radius of 150 metres of a pedestrian access point to a building that houses a reproductive health clinic at which abortions are provided.

- (b) **Proposed section 11J** provides that:
- (i) it is the intention of Parliament that the fact that the public is entitled to access health services, including abortions, should be respected and that the public should be 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, as should employees and other persons who need to access such clinics in the course of their duties and responsibilities, and
 - (ii) accordingly, the objects of the proposed Division are to provide for safe access zones around such reproductive health clinics 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 and those who need to access those premises in the course of their duties and responsibilities, and to prohibit the publication and distribution of certain recordings of those persons in those safe access zones.
- (c) **Proposed section 11K** makes it an offence for a person who is in a safe access zone to harass, intimidate, interfere with, threaten, hinder, obstruct or impede any person accessing, leaving, or attempting to access or leave, any reproductive health clinic at which abortions are provided. The maximum penalty is 150 penalty units (currently \$16,500) or imprisonment for 12 months.
- (d) **Proposed section 11L** makes it an offence for a person who is in a safe access zone to obstruct or block a footpath or road leading to any reproductive health clinic at which abortions are provided. The maximum penalty is 150 penalty units or imprisonment for 12 months.
- (e) **Proposed section 11M** 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 is 150 penalty units or imprisonment for 12 months.
- (f) **Proposed section 11N** 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 and is accessing, leaving, or attempting to access or leave, or is inside, a reproductive health clinic at which abortions are provided, 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 was accessing, leaving, attempting to access or leave, or inside, a reproductive health clinic at which abortions are provided if the recording contains particulars likely to lead to the identification of that other person.
- The maximum penalty for either offence is 150 penalty units or imprisonment for 12 months.
- (g) **Proposed section 11O** provides for the seizure of things that a police officer suspects on reasonable grounds may provide evidence of the commission of an offence under the proposed Division.
- (h) **Proposed section 11P** provides that the proposed Division does not apply so as to prohibit conduct occurring in the forecourt of, or on the footpath or road 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 Division applies despite anything to the contrary in other statutory provisions about public assemblies or protests.



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New South Wales

Summary Offences Amendment (Safe Access to Reproductive Health Clinics) Bill 2017

No. , 2017

A Bill for

An Act to amend the *Summary Offences Act 1988* to provide for safe access zones around reproductive health clinics at which abortions are performed and to prohibit certain behaviour in those zones.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Summary Offences Amendment (Safe Access to Reproductive Health Clinics) Act 2017*.

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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 Summary Offences Act 1988	1
	No 25	2
Part 2, Division 2C		3
Insert after section 11H:		4
Division 2C	Prohibited behaviour around reproductive health clinics where abortions are provided	5
		6
11I	Definitions	7
	In this Division:	8
	<i>abortion</i> means the administration of a drug, or the use of an instrument or any other means, with intent to procure a miscarriage.	9
	<i>reproductive health clinic</i> means any premises where medical services relating to aspects of human reproduction or maternal health are provided, but does not include a pharmacy.	10
	<i>safe access zone</i> means an area within a radius of 150 metres of:	11
	(a) a reproductive health clinic at which abortions are provided, or	12
	(b) a pedestrian access point to a building that houses a reproductive health clinic at which abortions are provided.	13
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11J	Objects of Division	15
	(1) It is the intention of Parliament that:	16
	(a) the fact that the public is entitled to access health services, including abortions, should be respected, and	17
	(b) the public should be 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, as should employees and other persons who need to access such clinics in the course of their duties and responsibilities.	18
	(2) Accordingly, the objects of this Division are:	19
	(a) 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, and those who need to access those premises in the course of their duties and responsibilities, and	20
	(b) to prohibit the publication and distribution of certain recordings of those persons in those safe access zones.	21
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11K	Interfering with access of persons to reproductive health clinics	27
	A person who is in a safe access zone must not harass, intimidate, interfere with, threaten, hinder, obstruct or impede, by any means, any person accessing, leaving, or attempting to access or leave, any reproductive health clinic at which abortions are provided.	28
	Maximum penalty: 150 penalty units or imprisonment for 12 months.	29
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11L	Obstructing, blocking or impeding footpaths or roads providing access to reproductive health clinics	1 2
	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.	3 4 5
	Maximum penalty: 150 penalty units or imprisonment for 12 months.	6
11M	Causing actual or potential distress or anxiety to persons in safe access zones	7
(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:	8 9
(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	10 11 12
(b)	that is reasonably likely to cause distress or anxiety to any such person.	13
	Maximum penalty: 150 penalty units or imprisonment for 12 months.	14
(2)	This section does not apply to an employee or other person who provides services at the reproductive health clinic.	15 16
11N	Capturing and distributing visual data of persons in safe access zone	17
(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 and is accessing, leaving, or attempting to access or leave, or is inside, a reproductive health clinic at which abortions are provided.	18 19 20 21
	Maximum penalty: 150 penalty units or imprisonment for 12 months.	22
(2)	A person must not publish or distribute a recording of another person without that other person's consent if:	23 24
(a)	the recording was made while that other person was in a safe access zone and was accessing, leaving, attempting to access or leave, or inside, a reproductive health clinic at which abortions are provided, and	25 26 27
(b)	the recording contains particulars likely to lead to the identification of that other person.	28 29
	Maximum penalty: 150 penalty units or imprisonment for 12 months.	30
(3)	In this section:	31
	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:	32 33
(a)	a recording is made of the images, or	34
(b)	the images are capable of being transmitted in real time with or without retention or storage in a physical or electronic form, or	35 36
(c)	the images are otherwise capable of being distributed.	37
	distribute means:	38
(a)	communicate, exhibit, send, supply or transmit, whether to a particular person or not, or	39 40
(b)	make available for access, whether by a particular person or not, or	41
(c)	enter into an agreement or arrangement to do any thing mentioned in this definition, or	42 43
(d)	attempt to distribute (within the meaning of paragraphs (a)–(c)).	44

110	Seizure of things providing evidence of offence	1
(1)	A police officer may seize all or part of a thing that the officer suspects on reasonable grounds may provide evidence of the commission of an offence under this Division.	2 3 4
(2)	If a person is convicted or found guilty of an offence under this Division, any item seized under this section is forfeited to the Crown and is to be destroyed or disposed of in a manner approved by the Minister.	5 6 7
11P	Application of Division	8
(1)	This Division does not apply so as to prohibit:	9
(a)	conduct occurring in the forecourt of, or on the footpath or road outside, Parliament House in Macquarie Street, Sydney, or	10 11
(b)	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.	12 13 14 15
(2)	This Division applies despite anything to the contrary in:	16
(a)	Part 4 of this Act, or	17
(b)	Part 14 of the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i> .	18 19