

Summary Offences Amendment (Safe Access to Reproductive Health Clinics) Bill 2016

Second Reading

The Hon. PENNY SHARPE (10:19): I move: That this bill be now read a second time.

It is with great hope and anticipation that I introduce the Summary Offences Amendment (Safe Access to Reproductive Health Clinics) Bill 2017. I bring this bill to the Parliament because every day in New South Wales women are subjected to harassment and intimidation as they attempt to enter reproductive health clinics where abortions are provided. The staff of reproductive health clinics are also subjected to unacceptable harassment. Harassment and intimidation of anyone is always unacceptable. The type of harassment and intimidation that women and staff of reproductive health clinics endure should not be seen differently. There is no place for it in our communities. It is unacceptable that women trying to enter reproductive health clinics have to run the gauntlet of people who try to stop them with physical harassment and verbal abuse. It is unacceptable that women are jostled and filmed.

It is unacceptable that women are forced to look at distorted graphic images and told that they are murderers and that they are going to hell. It is unacceptable that the dedicated staff are often followed and harassed on the way into and out of work. For women who have the legal right to make choices about when and if they will have children, the harassment and intimidation they are forced to endure outside clinics is not just unacceptable, it has to stop. The sad reality is that our current laws are not adequate to stop the harassment and intimidation. This bill, if passed, will make it stop. That is why I introduce this bill today. If passed this bill will protect the safety, wellbeing, privacy and dignity of women accessing reproductive health services across New South Wales. It will also protect the employees of reproductive health services.

This second reading debate is not a debate about whether women are able to access abortion and other reproductive health services—by law they can. What this bill does is protect the right of a person to attend a reproductive health clinic without fear of intimidation or harassment or with their privacy being invaded or their dignity attacked or diminished. There is no other health service where patients are subject to this kind of harassment. That is why women in New South Wales need this bill to become law. I acknowledge that some members of the community have deeply held views about abortion. The bill does not seek to prevent people from holding or expressing their views, or protesting about their views, on abortion. However, this bill does not allow deeply held views to be an excuse for intimidation and harassment outside clinics.

The bill prohibits certain behaviour and creates certain offences within what will be known as safe access zones. A safe access zone is defined as an area within a radius of 150 metres of a reproductive health clinic at which medical or surgical abortions are provided, or a pedestrian access point to a building that houses a reproductive health clinic at which abortions are provided. Legislation for safe access zones has now been passed and implemented in four Australian states and territories—the Australian Capital Territory, Tasmania and Victoria have implemented the zones—and just last week I was pleased to see that the Northern Territory has also passed a safe access zone bill. The use of 150 metres in this bill is consistent with other jurisdictions and is working well in those locations. The bill before the House will insert a division into the Summary Offences Act 1988 to include certain

objects to make clear the intentions of the Parliament in making these laws. The objects of the bill state that by passing this law, the Parliament intends that:

(a) the fact that the public is entitled to access health services, including abortions, should be respected, and

(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.

This is the simple but important premise of this bill. I turn to the detail of the bill. The bill creates a number of offences for what is defined as prohibited behaviour. The penalty for these offences is 150 penalty units or imprisonment for 12 months. The penalties in this bill are consistent with what is in place in Victoria, and recognise the seriousness of the offences in question. The penalties respond to the impact these activities have on women wanting to safely and privately access these services.

Section 11K makes it an offence for anyone within a safe access zone to 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. This section addresses both the physically intimidating and sometimes verbally abusive behaviour directed at women accessing reproductive health services. The reality for clinics in New South Wales is that on a regular basis there are either individuals or organised groups who describe themselves as "sidewalk counsellors" who stand in front of people trying to enter or leave clinics. These individuals and groups block the entrance with their bodies and sometimes A-frames or other signage.

There is almost not a week that goes past when someone in Surry Hills does not contact me to tell me about what they have witnessed and their concern about what can be done to stop the behaviour towards those trying to leave or enter the clinic on Devonshire Street. This has most recently also been a recurring problem in Albury. Those who have witnessed the behaviour report physical scuffles, verbal abuse and threats made towards those going in. They also report the distress this harassment causes to patients trying to enter. This clause also seeks to pick up activities that are regularly undertaken by those outside clinics, including handing out upsetting leaflets, displaying distressing and sometimes graphic images and using props to upset and dissuade women from obtaining abortions.

Section 11L of the bill makes it an offence without reasonable excuse to obstruct or block a footpath or road leading to any reproductive health clinic at which abortions are provided. It should not be the case that women or clinic employees are physically forced to cross the road, find a path around, or run a gauntlet of intimidating and abusive groups of people. Section 11M makes it an offence to cause actual or potential distress or anxiety to persons in a safe access zone. Section 11M of the bill states:

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.

For clarity, it is also provided that this section does not apply to an employee or other person who provides services at the reproductive health clinic. This clause attempts to ban activities, which have been reported by health services elsewhere, such as displaying dolls in prams spattered with fake blood or standing silently with their mouths taped shut very close to those trying to enter. It is clear that people engaging in prohibited activities may have a variety of different motives for their actions. They may be seeking to protest about abortion, or may genuinely believe that they are helping women in need, saving lives, providing alternatives to abortion or educating people about abortion and its impacts, among other reasons. However, when this conduct takes place directly outside health services providing abortions, it has the effect of intimidating, and causing anxiety to, many patients and health service staff and should not occur.

Finally, section 11N of the bill prohibits the intentional capturing of visual data of another person, by any means, without their consent, if that 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. It also prohibits the publishing or distribution of a recording of another person without their consent in a safe access zone, and if the recording contains particulars likely to lead to the identification of that other person.

The bill defines capturing visual data to include recording or any sort of live streaming or being capable of distribution, and it also precludes attempting to distribute captured visual data. The need for this section arises because the filming and recording of women by some so-called "sidewalk counsellors" is used as yet another way to try to shame women for accessing these services. This is the issue that has caused the most distress to the people who have contacted me. They do not know who is filming them as they seek to leave or enter a clinic, and what is happening to that material.

There are provisions in the bill where there is a reasonable-excuse defence, so that recordings by security cameras installed by a company contracted by a health service or legitimate recordings undertaken by police in gathering evidence for enforcement purposes would not be captured by these provisions. This offence is also limited to circumstances where the recording could identify an individual and which identifies a person as a person accessing premises at which abortions are performed. Importantly, a final section of the bill makes it clear that there is no restriction on the right of those who wish to protest about laws regarding abortion.

The bill makes it clear that conduct occurring in the forecourt of, or on the footpath or road outside Parliament House here in Macquarie Street, 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 are not subject to these offences. The laws will not interfere with the right to public assembly or protest relating to abortion when it comes to the Parliament or elections. This bill is aimed squarely at providing safety to women accessing a health service to which they are entitled, while preserving their privacy and dignity, as well as for those people who face the same

mistreatment simply due to their workplace at a clinic. There should be no green light for those who seek to intimidate and harass women as they seek access to reproductive health clinics.

In Victoria, a 2011 study in relation to just one clinic where abortions are performed found that 85 per cent of women surveyed reported seeing protesters outside the clinic, 74 per cent reported seeing anti-abortion displays such as posters and props, 55 per cent reported that protesters had said things to them, 60 per cent reported that protesters had tried to hand them anti-abortion information and 20 per cent had someone attempt to block their entry to the clinic. If applied to New South Wales—and particularly the two clinics that I am aware of in Surry Hills and Albury—the figures would be very similar.

Since announcing my intention to bring this bill to the Parliament I have had many people send me emails, pull me aside at functions or send me private Facebook messages where they have told their story and explained to me why this bill is so important to them. This harassment occurring in New South Wales is not isolated nor is it benign. I will share just three scenarios that have been told to me by many different people—different occasions but the same types of unacceptable behaviour. A woman related the story of how when she attended a clinic with her partner she was jostled and, as her partner tried to shield her and push the people back to get her through the door of the clinic, a woman who was blocking the door fell to the ground screaming that the man had physically abused her.

Another woman as she was accompanying her daughter to the clinic was horrified at the intimidation and threats that they endured but she also realised that the people out the front of the clinic had been filming her daughter as she entered the clinic. I have also heard from men who have accompanied their partners to a clinic to find themselves harassed and pushed and their partners verbally abused. All of them say that that experience is far worse than the difficult reproductive choices they have had to make with their partners. If this bill is passed it will put a stop to this type of unacceptable behaviour.

This is not a bill that seeks to change the current laws in relation to abortion in New South Wales but, as a pro-choice member of Parliament and a proud member of Emily's List, I cannot ignore that safe access zones touch on the issue of abortion. I believe that the laws governing abortion in New South Wales should be changed. I believe that abortion offences should not be included in the Crimes Act and I believe that women should be able to access abortion on demand. I look forward to another bill that will come before this House later this year that will seek progress on these issues. I will continue to work with all the women and men who support abortion law reform in New South Wales.

Bills like these do not come before our parliaments without a huge amount of work from people in our communities. I place on record my thanks to the staff who work in reproductive health clinics every day. These workers are champions for women. They truly understand that for women to be free they must have the right to decide whether to become a parent and, if they choose to do so, the number and timing of the children they will have. The workers in these clinics work under difficult circumstances. I hope that this bill is passed to give them the support they need to carry on this vital work.

I also thank the many women who have provided advice, support and suggestions as I have drafted this bill. To my friends south of the border in Victoria I say your work has paved the way for this bill in New South Wales and I thank you for your wise counsel. To my friends in unions, to those working as lawyers and to those working to advance equality for women in a variety of amazing organisations, I thank you for your guidance, support and patience as this bill has been put together. To the creative people behind the scenes who will work to gain support for this bill, thank you for your time and effort to bring the online campaign and real life campaign to life.

To the many women and men in the Labor Party who have been champions for abortion law reform and for the rights of women to live free from harassment, violence and intimidation, I thank you for your tenacity and continued support as we progress these issues together. Finally, I say to every woman who has ever been the subject of harassment and intimidation as they have tried to enter an abortion clinic, the behaviour you have had to contend with has no place in our community. It is wrong and it is shameful that our laws have not been able to give you the protection that you needed when you were at one of your most vulnerable points. Today with this bill we seek to ensure that no women in the future are subject to such unacceptable and harmful behaviour. I commend the bill to the House.