

Legislative Council—No 74

As received from the House of Assembly and read a first time, 23 September 2020

South Australia

Health Care (Safe Access) Amendment Bill 2020

A BILL FOR

An Act to amend the *Health Care Act 2008*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Health Care Act 2008*

- 4 Insertion of Part 5A
 - Part 5A—Health access zones
 - 48B Interpretation
 - 48C Object and application of Part
 - 48D Certain behaviour prohibited in health access zones
 - 48E Police officer may direct person to leave health access zone
 - 48F Offence to publish or distribute recording

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Health Care (Safe Access) Amendment Act 2020*.

5 **2—Commencement**

This Act comes into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 **Part 2—Amendment of *Health Care Act 2008***

4—Insertion of Part 5A

After section 48A insert:

Part 5A—Health access zones

48B—Interpretation

In this Part—

health access zone, in relation to protected premises, means—

- (a) the protected premises; and
- (b) any public area located within 150 metres of the protected premises;

prohibited behaviour means—

- (a) to threaten, intimidate or harass another person; or
- (b) to obstruct another person approaching, entering or leaving protected premises; or
- (c) to record (by any means whatsoever) images of a person approaching, entering or leaving protected premises; or
- (d) to communicate by any means in relation to abortions in a manner that is able to be seen or heard by a person accessing, attempting to access, or leaving protected premises and that is reasonably likely to cause distress or anxiety;

protected premises means any premises at which abortions are lawfully performed, but does not include a pharmacy within the meaning of Part 4 of the *Health Practitioner Regulation National Law (South Australia) Act 2010*;

public area means an area or place that the public, or a section of the public, is entitled to use or that is open to, or used by, the public or a section of the public (whether access is unrestricted or subject to payment of money, membership of a body or otherwise);

publish means to disseminate or provide access to the public or a section of the public by any means, including by—

- (a) publication in a book, newspaper, magazine or other written publication; or
- (b) broadcast by radio or television; or
- (c) public exhibition; or
- (d) broadcast or electronic communication,

and ***publication*** is to be construed accordingly.

48C—Object and application of Part

- (1) The object of this Part is to ensure the safety, wellbeing, privacy and dignity of people accessing abortion services, as well as health professionals and other people providing abortion services.
- (2) To avoid doubt, nothing in this Part prevents a person from—
 - (a) lawfully engaging in behaviour outside of a health access zone; or
 - (b) engaging in lawful protest, or otherwise engaging in lawful behaviour, within a health access zone in relation to a matter other than abortion.

48D—Certain behaviour prohibited in health access zones

- (1) A person who engages in prohibited behaviour in a health access zone is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 12 months.

- 5
- (2) However, subsection (1) does not apply in relation to the recording of images, or the communication of information—
- (a) by a person employed, or otherwise providing services, at protected premises to which the health access zone relates; or
 - (b) that occurs with the permission of the person whose image is recorded, or to whom the information is communicated; or
 - (c) that occurs in circumstances prescribed by the regulations.
- 10
- (3) For the purposes of this section, a person will be taken to be in a health access zone if any part of the person is within the health access zone.

48E—Police officer may direct person to leave health access zone

- 15
- (1) A police officer may, if the police officer reasonably suspects that a person has engaged, or is about to engage, in prohibited behaviour in a health access zone, direct the person to immediately leave the health access zone.
- 20
- (2) A police officer may, if the police officer reasonably suspects that a person or persons are engaging, or are about to engage, in prohibited behaviour in a health access zone, direct any or all persons within the health access zone to immediately leave the health access zone (whether or not the person or persons to whom the direction is given are engaging, or are about to engage, in prohibited behaviour).
- 25
- (3) However, a direction under subsection (2) will be taken not to apply to—
- (a) a person employed, or otherwise providing services, at protected premises to which the health access zone relates; or
 - (b) a person who has had, or is to have, an abortion, or be provided other services, at protected premises to which the health access zone relates; or
 - (c) a person genuinely accompanying a person referred to in a preceding paragraph; or
 - (d) any other person of a kind declared by the regulations to be included in the ambit of this subsection.
- 35
- (4) A person who refuses or fails to comply with a direction under this section is guilty of an offence.
Maximum penalty: \$10 000.
- 40
- (5) A person who, having been directed to leave a health access zone under this section, without reasonable excuse, re-enters the health access zone within 24 hours after the direction is guilty of an offence.
Maximum penalty: \$10 000.

48F—Offence to publish or distribute recording

A person must not, without the consent of the other person, publish or distribute a recording of a person approaching, entering or leaving protected premises if the recording contains information that—

5

- (a) identifies, or is likely to lead to the identification of, the other person; and
- (b) identifies, or is likely to lead to the identification of, the other person as having accessed protected premises.

Maximum penalty: \$10 000.