

House of Representatives

Supplementary Order Paper

Tuesday, 10 March 2020

Abortion Legislation Bill

Proposed amendments

Marama Davidson, in Committee, to move the following amendments:

Clause 5

In *clause 5*, *new section 2*, replace the definition of **safe area** (page 4, lines 29 to 31) with:

safe area means any area established as a safe area under **section 15**

Clause 7

In *clause 7*, replace *new sections 15 to 17* (page 6, line 22 to page 8, line 18) with:

15 Establishment of safe area

- (1) An abortion services provider may apply to the Director-General to establish a safe area in relation to the provider's premises.
- (2) Following receipt of an application under **subsection (1)**, the Director-General must establish a safe area under **subsection (3)** if the Director-General is satisfied that the establishment of a safe area—
 - (a) is necessary to protect the safety and well-being, and respect the privacy and dignity, of persons—
 - (i) accessing abortion services:
 - (ii) providing, or assisting with providing, abortion services:
 - (iii) seeking advice or information about abortion services:

- (iv) providing, or assisting with providing, advice or information about abortion services; and
- (b) can be demonstrably justified in a free and democratic society as a reasonable limitation on people’s rights and freedoms.
- (3) The Director-General may, by notice published in the *Gazette*, establish as a safe area—
 - (a) any specified premises of the provider at which abortion services are provided; and
 - (b) an area around those premises that is an area having a boundary of not more than 150 metres from any part of the premises.

16 Certain behaviour prohibited in safe areas

- (1) A person must not engage in any prohibited behaviour in a safe area.
- (2) A person who contravenes this section commits an infringement offence and may be served with an infringement notice under **section 17**.
- (3) The infringement fee payable for an infringement offence under **subsection (2)** is \$500.
- (4) In this section, **prohibited behaviour**—
 - (a) means—
 - (i) displaying any signage depicting images or messages related to abortion services;
 - (ii) broadcasting or otherwise communicating any messages related to abortion services;
 - (iii) visually recording any person within the safe area;
 - (iv) obstructing pedestrian or vehicle access through a safe area; but
 - (b) despite **paragraph (a)(i)**, does not include displaying any signage that—
 - (i) forms part of the provider’s premises;
 - (ii) provides public notice of the presence of a safe area.

17 Issue of infringement notice

- (1) If a constable has reasonable grounds to believe that a person is committing, or has committed, an infringement offence under **section 16(2)**, the constable may issue an infringement notice to the person for the offence.

- (2) An infringement notice may be served—
 - (a) by delivering it, or a copy of it, personally to the person alleged to have committed the infringement offence; or
 - (b) by sending it, or a copy of it, by post addressed to the person at his or her last known place of residence or business or postal address.
- (3) An infringement notice that is sent to a person by post under **subsection (2)(b)** is served on the person when it would have been delivered in the ordinary course of post.
- (4) An infringement notice must be in the prescribed form and must contain the following particulars:
 - (a) the details of the alleged infringement offence that are necessary to sufficiently inform the person of the time, place, and nature of the alleged offence; and
 - (b) the amount of the infringement fee specified for the offence; and
 - (c) the address of the place at which the infringement fee may be paid; and
 - (d) the time by which the infringement fee must be paid; and
 - (e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and
 - (f) a statement of the right of the person served with the notice to request a court hearing; and
 - (g) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a court hearing; and
 - (h) any other particulars that may be prescribed.
- (5) If an infringement notice has been issued, proceedings in respect of the infringement offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957 and, in that case,—
 - (a) reminder notices may be prescribed under regulations made under this Act; and
 - (b) in all other respects, section 21 of the Summary Proceedings Act 1957 applies with all necessary modifications.

In clause 7, new section 21, after paragraph (a) (page 13, after line 7), insert:

- (aa) prescribing the forms that must be used for issuing an infringement notice under **section 17**:

Explanatory note

This Supplementary Order Paper (SOP) amends the Abortion Legislation Bill to change the framework for the establishment of safe areas. Under the changes in this SOP, an abortion services provider would be able to apply to the Director-General of Health to establish a safe area through the *Gazette*. This contrasts with the provisions currently in the bill that require an Order in Council to establish a safe area. The threshold for establishing a safe area would be the same as currently proposed in the bill, ensuring these are used when necessary and justifiable as a limit on freedom of expression. This SOP also clarifies the specific activities that are prohibited in a safe area, making these prohibitions more objective. Any breach would be an infringement offence with a \$500 penalty—this is a more appropriate response to the nature of the harm being addressed than the current proposal of an offence punishable by up to \$1,000 on conviction.