

Enabling legislation to support access

While defining abortion in the criminal law is outdated and unnecessary the law has an important role to play in supporting women's access to abortion care. Repealing South Australia's outdated abortion laws and treating abortion like all other health procedures, regulated under the Health Care Act 2008 (SA),¹ will remove barriers to providing best care and improve women's access to timely services which are able to respond to their needs and values.

Enacting enabling legislation for safe access to abortion premises and timely referral to an abortion provider will ensure women have access to this health care like any other.

The South Australian Abortion Action Coalition (SAAAC) proposes an abortion law reform bill which would:

1. Repeal abortion entirely from criminal law in SA by repealing all of Division 17 and Division 18 CLCA, 1935 (SA)²;
2. Abolish all references to abortion in criminal law.

SAAAC proposes additional provisions in the Health Care Act to:

1. Ensure there is an obligation for medical practitioners who have a conscientious objection to abortion to refer to practitioners who do not;
2. Ensure safe access to premises at which abortions are provided.

These advances will enable abortions to be provided, under health law and ethics:

1. On the informed consent of the woman rather than the opinion of two doctors;
2. In the most appropriate location, rather than only in those hospitals prescribed by the law;
3. By appropriately trained health professionals, including nurses and midwives, unrestricted by outdated and uncertain legal interpretations,³ and in accordance with World Health Organisation recommendations;
4. Incorporating technological advances and guided by medical evidence for the provision of safe and best practice abortion care;
5. To women from interstate locations such as Broken Hill, Alice Springs, Mildura or Darwin who usually access specialist health services in Adelaide.

The key advances recognised by other Australian states' modernised legislative environments include:

The right to safe access

Anti-abortion protests at the entrance and adjacent to the Pregnancy Advisory Centre in Woodville are commonplace and cause concern and distress to clients and staff. The introduction of safe access zone legislation in Victoria,⁴ Tasmania,⁵ the ACT⁶ and the NT⁷ demonstrates governments' commitment to ensure citizens' right to provide and access health services without hindrance.

Safe access zones (sometimes called exclusion or bubble zones) create a defined area around the entrance to an abortion service within which behaviour is controlled to enable the right of entry to clients and staff free from harassment and intimidation of any kind.

The obligation to refer

Doctors are ethically and professionally bound to ensure that their own conscientious objection to a health service does not impede access for people needing such a service. The Victorian,⁸ Tasmanian and NT abortion laws specifically require that doctors who have a personal conscientious objection to abortion refer to a practitioner who they know will support the woman's request for abortion.

Penalties apply to medical professionals who do not refer women in a timely manner.

- 1 Health Care Act 2008
<https://www.legislation.sa.gov.au/LZ/C/A/HEALTH%20CARE%20ACT%202008.aspx>
- 2 Criminal Law Consolidation Act 1935
<https://www.legislation.sa.gov.au/LZ/C/A/CRIMINAL%20LAW%20CONSOLIDATION%20ACT%201935.aspx>
- 3 De Costa CM, Russell DB and Carrette M, 2010, 'Views and practices of induced abortion among Australian Fellows and specialist trainees of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists', *Medical Journal of Australia* 193, 13-16.
<https://www.mja.com.au/journal/2010/193/1/views-and-practices-induced-abortion-among-australian-fellows-and-specialist>
- 4 Public Health and Wellbeing (Safe Access) Bill 2015
<http://www.parliament.vic.gov.au/static/www.legislation.vic.gov.au-bills.html>
- 5 Reproductive Health (Access to Terminations) Act 2013
<http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=ALL;docid=72%2B%2B2013%2BAT%40EN%2B20161018140000;histon=;pdfauthverid=;prompt=;rec=:rtfauthverid=;term=reproductive%20health;webauthverid=>
- 6 Health (Patient Privacy) Amendment Bill 2015
http://www.legislation.act.gov.au/b/db_52769/20150917-61888/pdf/db_52769.pdf
- 7 Termination of Pregnancy Law Reform Bill 2017
<http://www.austlii.edu.au/au/legis/nt/bill/toplrb2017373/>
- 8 Abortion Law Reform Act 2008
[http://www.legislation.vic.gov.au/domino/web_notes/LDMS/LTObject_Store/LTObjSt1.nsf/d1a8d8a9bed958efca25761600042ef5/69d6c3a5305f935bca2577610017c10d/\\$FILE/08-58a003.pdf](http://www.legislation.vic.gov.au/domino/web_notes/LDMS/LTObject_Store/LTObjSt1.nsf/d1a8d8a9bed958efca25761600042ef5/69d6c3a5305f935bca2577610017c10d/$FILE/08-58a003.pdf)