

## 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While defining abortion in the criminal law is outdated and unnecessary the law has an important role to play in supporting women's access to abortion care. Repealing South Australia's outdated abortion laws and treating abortion like all other health procedures, regulated under the Health Care Act 2008 (SA),<sup>1</sup> 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 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)<sup>2</sup>;
2. Abolish all references to abortion in criminal law.
3. Ensure safe access to premises at which abortion is provided through an additional provision in the Health Care Act.

**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 By appropriately trained health professionals, including nurses and midwives, unrestricted by outdated and uncertain legal interpretations,<sup>3</sup> 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.

**One key advance in other Australian states' modernised legislative environments is protection for safe access to care**

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,<sup>4</sup> Tasmania,<sup>5</sup> the ACT,<sup>6</sup> the NT,<sup>7</sup> Qld<sup>8</sup> and NSW<sup>9</sup> 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.

In April 2019, the High Court confirmed the validity of safe access zone legislation<sup>10</sup> for 'the protection of the safety, wellbeing, privacy and dignity of persons accessing lawful medical services'.<sup>11</sup>

- 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=;pdfaithverid=;prompt=;rec=;rtfaithverid=;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](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/toplr2017373/>
- 8 Termination of Pregnancy Act 2018.  
<https://www.legislation.qld.gov.au/view/pdf/asmade/act-2018-023>
- 9 Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018  
<https://www.legislation.nsw.gov.au/#/view/bill/7d380d2a-d24c-4ed4-9c9b-51537985fa22>
- 10 <http://eresources.hcourt.gov.au/showCase/2019/HCA/11>
- 11 <http://www.hcourt.gov.au/assets/publications/judgment-summaries/2019/hca-11-2019-04-10.pdf>