

**Ministry of the  
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**MEMORANDUM TO:**

Stephen Beckett  
Assistant Deputy Minister  
Public Safety Division and Public Safety Training  
Division, Ministry of Community Safety and  
Correctional Services

**FROM:**

Irwin Glasberg  
Assistant Deputy Minister  
Policy Division, Ministry of the Attorney General

**DATE:**

January 11, 2018

**SUBJECT:**

***Safe Access to Abortion Services Act, 2017***  
**COMES INTO FORCE FEBRUARY 1, 2018**

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I am writing to you regarding the ***Safe Access to Abortion Services Act, 2017*** (**SAASA**), which has been proclaimed and will come into force on **February 1, 2018**.

As you know, this Act is new legislation that allows for safe access zones to be established around clinics and facilities that offer abortion services, as well as the offices and homes of clinic staff and other regulated health professionals that provide these services.

We ask that the information below about the SAASA be distributed to Chiefs of Police as soon as possible for their information, and that you confirm with us once this has been accomplished.

**The Legislation**

The SAASA is new legislation that allows for safe access zones to be established around clinics and facilities that offer abortion services, as well as the offices and homes

of clinic staff, and other regulated health professionals that provide these services (see Appendix 1 for the SAASA).

### **1. Automatic Safe Access Zones**

A safe access zone is a zone around a specified location in which certain behaviours are prohibited, such as anti-abortion protesting and activities that intimidate, harass, or interfere with individuals accessing or providing abortion services.

As of February 1, 2018, the eight abortion clinics in Ontario (five in Toronto, one in Mississauga, one in Brampton, and one in Ottawa) will **automatically** receive safe access zones of 50 metres from the boundaries of their property. The names, addresses, and size of the safe access zone for clinics will be listed in a regulation under the SAASA for information purposes (see Appendix 2 for a current list of clinics in Ontario).

Safe access zones of 150 metres will also be **automatically** established around the homes of “protected service providers” (**all** clinic staff and doctors, nurses, and pharmacists that provide abortion services<sup>1</sup>). These locations will **not** be listed in a regulation.

### **2. Safe Access Zones Established by Regulation**

Other facilities, such as health centres, medical offices, hospitals, and pharmacies that offer abortion services will be able to apply to the Ministry of the Attorney General for a safe access zone of up to 150 metres. If a zone around a facility is granted, the location and size of the zone will be listed in a regulation under the SAASA.

The legislation is available online at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca). The regulation will also be available online after the SAASA is in force.

## **Offences under the SAASA**

### **1. Prohibited Activities in Safe Access Zones around Abortion Clinics and Facilities**

Section 3(1) of the SAASA lists the following prohibited activities within a safe access zone for a clinic or facility. In a safe access zone around a clinic or facility, no person shall:

- advise or persuade, or attempt to advise or persuade, a person to refrain from accessing abortion services;
- inform or attempt to inform a person concerning issues related to abortion services, by any means, including oral, written or graphic means;

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<sup>1</sup> The SAASA defines “abortion services” as “lawful services provided for the termination of pregnancy including prescribing, dispensing or administering a drug to terminate pregnancy.”

- perform or attempt to perform an act of disapproval concerning issues related to abortion services, by any means, including oral, written or graphic means;
- persistently request that,
  - a person refrain from accessing abortion services, or
  - a protected service provider refrain from providing, or assisting in the provision of, abortion services;
- for the purpose of dissuading a person from accessing abortion services,
  - continuously or repeatedly observe the clinic or facility or persons entering or leaving the clinic or facility,
  - physically interfere with or attempt to physically interfere with the person,
  - intimidate or attempt to intimidate the person, or
  - photograph, film, videotape, sketch or in any other way graphically record the person;
- for the purpose of dissuading a protected service provider from providing, or assisting in the provision of, abortion services,
  - continuously or repeatedly observe the clinic or facility or persons entering or leaving the clinic or facility,
  - physically interfere with or attempt to physically interfere with the provider,
  - intimidate or attempt to intimidate the provider, or
  - photograph, film, videotape, sketch or in any other way graphically record the provider.

The above prohibited activities do not apply to anything done in the course of a person's work at a clinic or facility, or anything occurring between a person accessing, or attempting to access, abortion services and someone who is accompanying the person with that person's consent.

A person may not be convicted of an offence under section 3(1) of the SAASA unless the person knew or, at any time before the contravention, was given notice of, the location of the relevant safe access zone.

## ***2. Prohibited Activities in Safe Access Zones around Residences***

Section 4 of the SAASA lists the following prohibited activities within a safe access zone around a residence. In a residential safe access zone, no person can:

- perform or attempt to perform an act of disapproval, directed at or about the provider, concerning issues related to abortion services, by any means, including oral, written or graphic means;
- persistently request that the provider refrain from providing, or assisting in the provision of, abortion services; or
- for the purpose of dissuading the provider from providing, or assisting in the provision of, abortion services,
  - continuously or repeatedly observe the residence,
  - physically interfere with or attempt to physically interfere with the provider or a member of the provider's household,

- intimidate or attempt to intimidate the provider or a member of the provider's household, or
- photograph, film, videotape, sketch or in any other way graphically record the provider or a member of the provider's household.

A person may not be convicted of an offence under section 4 of the SAASA unless the person knew or, at any time before the contravention, was given notice of, the location of the relevant safe access zone.

### **3. *Prohibition on Harassment of Protected Services Providers***

Section 5 of the SAASA establishes an anti-harassment offence that applies **anywhere in Ontario** to prevent the harassment of protected service providers. Under this section, no person shall, for the purpose of dissuading a protected service provider from providing, or assisting in the provision of, abortion services:

- repeatedly approach, accompany or follow the provider or a person known to the provider;
- continuously or repeatedly observe the provider;
- persistently request that the provider refrain from providing, or assisting in the provision of, abortion services; or
- engage in threatening conduct directed at the provider or a person known to the provider.

Additionally, no person shall repeatedly communicate by telephone, fax or electronic means with a protected service provider or a person known to the provider, for the purpose of dissuading the provider from continuing to provide or assist in the provision of abortion services, after the person being communicated with has requested that such communications stop.

Notice is not required for conviction of harassing a protected service provider under section 5 of the SAASA.

## **Arrest Powers**

Section 12 of the SAASA provides police officers with the power to arrest a person without a warrant if the officer believes, on reasonable and probable grounds, that the person has committed, or is committing, an offence under the SAASA.

## **Penalties**

Individuals who contravene the SAASA will be prosecuted under the *Provincial Offences Act*. For first offences, individuals can receive a fine up to \$5,000 and/or imprisonment of up to six months. For second and subsequent offences, a fine between \$1,000 and \$10,000 and/or imprisonment of up to 12 months can be ordered.

## **Further information**

Please share this memorandum with the appropriate members of your police service.

The Ministry of the Attorney General is currently developing a training deck to support police in enforcing this legislation. As soon as it is available, we will provide the training deck to local Crown Attorneys to be shared with their respective Chief of Police.

If members of the policing community have any questions about this initiative, they may contact Judy Mungovan, Counsel, Policy Division, Ministry of the Attorney General, (416) 326-2519 or [judy.mungovan@ontario.ca](mailto:judy.mungovan@ontario.ca).

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Irwin Glasberg', with a stylized flourish at the end.

Irwin Glasberg  
Assistant Deputy Attorney General  
Policy Division  
Ministry of the Attorney General

## Appendix 1 – Safe Access to Abortion Services Act, 2017

### PURPOSE

#### Purpose of Act

**1** The purpose of this Act is to protect access to abortion services by protecting the safety, security, health and privacy of persons seeking to access these services and of persons providing, or assisting in the provision of, these services.

### INTERPRETATION

#### Definitions

**2** In this Act,

“abortion services” means lawful services provided for the termination of pregnancy including prescribing, dispensing or administering a drug to terminate pregnancy; (“services d’interruption volontaire de grossesse”)

“clinic” means a place, other than a place in a hospital, whose primary purpose is to provide abortion services; (“clinique”)

“facility” means,

- (a) a place, other than a clinic, where abortion services are provided including, for greater certainty, a hospital, health centre or pharmacy where abortion services are provided, or
- (b) the office of a person who is a protected service provider within the meaning of clause (b) of the definition of “protected service provider”; (“établissement”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“property”, in relation to a clinic, facility or residence, means,

- (a) property within the meaning of the *Land Titles Act* if that Act applies to the land where the clinic, facility or residence is located and clause (c) does not apply,
- (b) property within the meaning of the *Registry Act* if that Act applies to the land where the clinic, facility or residence is located and clause (c) does not apply,
- (c) property within the meaning of the *Condominium Act, 1998* or as prescribed for the purposes of this clause, if that Act governs the land where the clinic, facility or residence is located as described in clause 2 (3) (a) of that Act, or
- (d) property, as prescribed for the purposes of this clause, if none of clauses (a), (b) or (c) apply; (“unité foncière”)

“protected service provider” means,

- (a) a person who works at a clinic, or
- (b) a person who provides, or assists in the provision of, abortion services and who is,
  - (i) a member of the College of Physicians and Surgeons of Ontario,

- (ii) a member of the College of Nurses of Ontario,
- (iii) a member of the Ontario College of Pharmacists who holds a certificate of registration as a pharmacist, or
- (iv) a regulated health professional prescribed for the purpose of this subclause. (“fournisseur de services protégé”)

## PROHIBITIONS

### Prohibitions in access zones for clinics or facilities

**3 (1)** While in an access zone established under section 6 for a clinic or facility, no person shall,

- (a) advise or persuade, or attempt to advise or persuade, a person to refrain from accessing abortion services;
- (b) inform or attempt to inform a person concerning issues related to abortion services, by any means, including oral, written or graphic means;
- (c) perform or attempt to perform an act of disapproval concerning issues related to abortion services, by any means, including oral, written or graphic means;
- (d) persistently request that,
  - (i) a person refrain from accessing abortion services, or
  - (ii) a protected service provider refrain from providing, or assisting in the provision of, abortion services;
- (e) for the purpose of dissuading a person from accessing abortion services,
  - (i) continuously or repeatedly observe the clinic or facility or persons entering or leaving the clinic or facility,
  - (ii) physically interfere with or attempt to physically interfere with the person,
  - (iii) intimidate or attempt to intimidate the person, or
  - (iv) photograph, film, videotape, sketch or in any other way graphically record the person;
- (f) for the purpose of dissuading a protected service provider from providing, or assisting in the provision of, abortion services,
  - (i) continuously or repeatedly observe the clinic or facility or persons entering or leaving the clinic or facility,
  - (ii) physically interfere with or attempt to physically interfere with the provider,
  - (iii) intimidate or attempt to intimidate the provider, or
  - (iv) photograph, film, videotape, sketch or in any other way graphically record the provider; or
- (g) do anything prescribed for the purpose of this clause.

### Exception

(2) Clauses (1) (a), (b), (c) and (d) do not apply,

- (a) to anything done in the course of a person's work at the clinic or facility; or
- (b) to anything occurring between a person accessing, or attempting to access, abortion services and someone who is accompanying the person with the person's consent.

#### Prohibitions in access zones for residences

**4** While in an access zone established under section 7 for the residence of a protected service provider, no person shall,

- (a) perform or attempt to perform an act of disapproval, directed at or about the provider, concerning issues related to abortion services, by any means, including oral, written or graphic means;
- (b) persistently request that the provider refrain from providing, or assisting in the provision of, abortion services; or
- (c) for the purpose of dissuading the provider from providing, or assisting in the provision of, abortion services,
  - (i) continuously or repeatedly observe the residence,
  - (ii) physically interfere with or attempt to physically interfere with the provider or a member of the provider's household,
  - (iii) intimidate or attempt to intimidate the provider or a member of the provider's household, or
  - (iv) photograph, film, videotape, sketch or in any other way graphically record the provider or a member of the provider's household.

#### Harassment of providers

**5** (1) No person shall, for the purpose of dissuading a protected service provider from providing, or assisting in the provision of, abortion services,

- (a) repeatedly approach, accompany or follow the provider or a person known to the provider;
- (b) continuously or repeatedly observe the provider;
- (c) persistently request that the provider refrain from providing, or assisting in the provision of, abortion services; or
- (d) engage in threatening conduct directed at the provider or a person known to the provider.

#### Same

(2) No person shall repeatedly communicate by telephone, fax or electronic means with a protected service provider or a person known to the provider, for the purpose of dissuading the provider from continuing to provide, or assist in the provision of, abortion services, after the person being communicated with has requested that such communications cease.

### ACCESS ZONES

#### Access zones for clinics and facilities

**6** (1) An access zone is established,



- (a) for each clinic; and
- (b) for each facility prescribed for the purpose of this clause.

#### Extent of zone - clinics

- (2) The access zone for a clinic consists of,
  - (a) the property on which the clinic is located and the area within 50 metres, or such other prescribed distance not exceeding 150 metres, from the boundaries of the property; or
  - (b) such area with different boundaries, as may be prescribed for the purpose of this clause.

#### Extent of zone - facilities

- (3) The access zone for a facility consists of,
  - (a) the property on which the facility is located and the area within the prescribed distance, not exceeding 150 metres, from the boundaries of the property; or
  - (b) such area with different boundaries, as may be prescribed for the purpose of this clause.

#### Limitation

- (4) No part of an area prescribed for the purpose of clause (2) (b) or (3) (b) may be further than 150 metres from the closest boundary of the property on which the clinic or facility is located.

#### Certain property excluded

- (5) The access zone for a clinic or facility does not include real property that one or more persons has the exclusive right to use or occupy if none of those persons is the occupier of the clinic or facility.

#### Regulations only on request, after notice

- (6) A regulation prescribing a facility for the purpose of clause (1) (b) or prescribing anything in relation to a clinic or facility for the purpose of subsection (2) or (3) may be made only if the occupier of the clinic or facility,
  - (a) has requested the regulation; or
  - (b) has been given notice of the intention to make the regulation and a reasonable opportunity to make written submissions before the regulation is made.

#### Revocations not affected

- (7) Subsection (6) does not apply to,
  - (a) a regulation that revokes anything prescribed for the purpose of subsection (2) in relation to a clinic that ceases to be a clinic; or
  - (b) a regulation that revokes the prescription of a facility for the purpose of clause (1) (b) or that revokes anything prescribed for the purpose of subsection (3) in relation to a facility that ceases to be prescribed for the purpose of clause (1) (b).

#### Access zones for residences

- 7 (1)** An access zone is established for the residence of each protected service provider.

## Extent of zone

(2) The access zone for a residence consists of the property on which the residence is located and the area within 150 metres, or such other prescribed lesser distance, from the boundaries of the property.

## Certain property excluded

(3) The access zone for a residence of a protected service provider does not include real property that one or more persons has the exclusive right to use or occupy if none of those persons is the provider or a member of the provider's household.

## ENFORCEMENT

### Offences

**8** A person who contravenes subsection 3 (1) or section 4 or 5 is guilty of an offence and, on conviction, is liable,

- (a) in the case of a first offence under this Act, to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both;
- (b) in the case of a second or subsequent offence under this Act, to a fine of not less than \$1,000 and not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

### Limit on conviction - knowledge or notice of zone

**9** A person may not be convicted of an offence for contravening subsection 3 (1) or section 4 unless the person knew or, at any time before the contravention, was given notice of, the location of the relevant access zone.

### Damages

**10** A person who suffers loss as a result of a contravention of subsection 3 (1) or section 4 or 5 by another person has a right of action for damages against that person.

### Injunction

**11** On application by a person, including the Attorney General, the Superior Court of Justice may grant an injunction to restrain a person from contravening subsection 3 (1) or section 4 or 5.

### Arrest without warrant

**12** A police officer may arrest without warrant a person the officer believes, on reasonable and probable grounds, has committed, or is committing, an offence under this Act.

## REGULATIONS

### Regulations

**13** The Attorney General may make regulations,

- (a) prescribing anything that is referred to, in this Act, as prescribed;

(b) setting out, for information purposes, the names and locations of the clinics in Ontario and descriptions of the access zones established under section 6 for those clinics.

**14** OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT).

**15** OMITTED (ENACTS SHORT TITLE OF THIS ACT).

**Appendix 2 – Abortion Clinics Automatically Granted Safe Access Zones as of  
February 1, 2018**

1. Brampton's Women's Clinic  
2250 Bovaird Dr E, Suite 602  
Brampton, ON L6R 0W3
2. Bloor West Village Women's Clinic  
2425 Bloor St. West, Suite 403  
Toronto, ON M6S 4W4
3. Cabbagetown Women's Clinic  
302 Gerrard Street East  
Toronto, ON M5A 2G7
4. Choice in Health Clinic  
1678 Bloor Street West, Suite 301  
Toronto, ON M6P 1A9
5. Mississauga Women's Clinic  
101 Queensway West, Suite 401  
Mississauga, ON L5B 2P7
6. Morgentaler Clinic  
65 Bank Street  
Ottawa, ON K1P 5N2
7. Morgentaler Clinic  
727 Hillsdale Avenue East  
Toronto, ON M4S 1V4
8. Women's Care Clinic  
960 Lawrence Ave W, Suite 501  
North York, ON M6A 3B5