

Protecting Access to Reproductive Health Care Act

CHAPTER 5 OF THE ACTS OF 2020



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Published by Authority of the Speaker of the House of Assembly
Halifax

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**An Act to Protect Access
to Reproductive Health Care**

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Short title

1 This Act may be cited as the *Protecting Access to Reproductive Health Care Act*. 2020, c. 5, s. 1.

Interpretation

2 In this Act,

(a) “abortion services” means lawful medical services or services within the practice of pharmacy, as defined in the *Pharmacy Act*, provided for the termination of pregnancy;

(b) “access zone” means a zone established under Section 7, 8 or 9;

(c) “besetting” means to place oneself close to, and to importune, a physician, a service provider or a patient for the purpose of dissuading the physician or service provider from providing, or the patient from accessing, abortion services;

(d) “distribute”, when used in reference to a recording, means knowingly publish, transmit, sell, advertise or otherwise make the recording available to a person other than the person in the recording;

(e) “facility” means

(i) a hospital,

(ii) a clinic,

- (iii) a physician's office,
- (iv) a pharmacy, or
- (v) premises prescribed by the regulations,

in which abortion services are provided;

(f) "interference" means an act of

(i) advising or persuading, or attempting to advise or persuade, another person to refrain from accessing abortion services,

(ii) advising or persuading, or attempting to advise or persuade, a physician who provides abortion services or a service provider to refrain from providing, or facilitating the provision of, abortion services,

(iii) informing or attempting to inform another person concerning issues related to abortion services, by any means, including graphic, verbal or written means or the use or display of models or representations;

(g) "patient" means a person who is in an access zone in the course of accessing abortion services and includes a person, other than a physician who provides abortion services or a service provider, accompanying the person;

(h) "physician" means a medical practitioner licensed by the College of Physicians and Surgeons pursuant to the *Medical Act*;

(i) "police officer" means a member of an agency as defined in the *Police Act*;

(j) "protest" means an act of disapproval or attempted act of disapproval, concerning issues related to abortion services, by any means, including graphic, verbal or written means or the use or display of models or representations;

(k) "service provider" means a person, other than a physician, who provides, or facilitates the provision of, abortion services. 2020, c. 5, s. 2.

Activities restricted in access zone

3 (1) Subject to subsections (2) and (3), no person shall, while in an access zone,

- (a) engage in interference;
- (b) engage in a protest;
- (c) engage in besetting;
- (d) continuously or repeatedly observe
 - (i) a patient, a physician who provides abortion services or a service provider,
 - (ii) a residence of a physician who provides abortion services or of a service provider, or
 - (iii) a building in which abortion services are provided or facilitated;

- (e) request that
 - (i) a patient refrain from accessing abortion services, or
 - (ii) a physician or a service provider refrain from providing, or facilitating the provision of, abortion services;
- (f) physically impede or attempt to impede the passage of a patient, a physician who provides abortion services or a service provider; or
- (g) intimidate or attempt to intimidate a patient, a physician who provides abortion services or a service provider.

(2) Subsection (1) does not apply to a police officer while the police officer is performing police duties.

(3) Clause (1)(a) does not apply to a person who, at the time of the interference, was

- (a) a patient;
- (b) a physician who provides abortion services; or
- (c) a service provider. 2020, c. 5, s. 3.

No recording in access zone

4 (1) Subject to subsection (2), no person shall photograph, film, videotape, sketch or make any other type of audio, visual or audiovisual recording of a patient, a physician who provides abortion services or a service provider while the patient, physician or service provider is in an access zone, unless the patient, physician or service provider consents to the recording.

- (2) Subsection (1) does not apply to
 - (a) an owner or operator of a facility or an office that is the subject of an access zone if the owner or operator, or any person acting on behalf of the owner or operator, photographs, films, videotapes or makes any other type of audio, visual or audiovisual recording for the purpose of ensuring the security of the facility or office or the safety of staff, patients or the public; or
 - (b) a police officer while the police officer is performing police duties. 2020, c. 5, s. 4.

No distribution of recording

5 No person shall distribute a photograph, film, videotape, sketch or any other audio, visual or audiovisual recording made of a patient, a physician who provides abortion services or a service provider while the patient, physician or service provider was in an access zone, if the distribution is for the purpose of

- (a) dissuading another person from accessing abortion services;
- (b) dissuading a physician who provides abortion services or a service provider from providing, or facilitating the provision of, abortion services; or

(c) dissuading another person from becoming a physician who provides abortion services or a service provider. 2020, c. 5, s. 5.

No harassment

6 (1) No person shall, for the purpose of dissuading another person from providing, or facilitating the provision of, abortion services, or from becoming a physician who provides abortion services or a service provider,

(a) repeatedly approach, accompany or follow another person;

(b) engage in besetting;

(c) continuously or repeatedly observe another person, the residence of another person, the office of a physician who provides abortion services or a building in which abortion services are provided or facilitated;

(d) persistently request that another person refrain from providing, or facilitating the provision of, abortion services; or

(e) engage in threatening conduct directed at another person.

(2) No person shall repeatedly communicate by telephone, mail, facsimile or electronic means with another person without that person's consent for the purpose of

(a) dissuading a physician who provides abortion services or a service provider from providing, or facilitating the provision of, abortion services; or

(b) dissuading a person from becoming a physician who provides abortion services or a service provider. 2020, c. 5, s. 6.

Access zone - facility

7 (1) An access zone is hereby established for every facility or class of facility specified in the regulations.

(2) Subject to subsection (3) and the regulations, an access zone established under subsection (1) includes the parcel or parcels of land on which the facility is located and an area that extends a distance of 50 metres from the boundaries of any parcel of land on which the facility is located.

(3) An access zone established under subsection (1) does not include the following:

(a) private property outside the parcel of land on which the facility is located, other than the private property that the owner or operator of the facility owns or has an exclusive right to use or occupy;

(b) any portion of the parcel of land on which the facility is located that a person other than the owner or operator of the facility has an exclusive right to use or occupy;

(c) where the facility is located in a unit, as defined in the *Condominium Act*, in a multi-unit building,

(i) any unit in the multi-unit building that a person other than the owner or occupier of the facility owns or has exclusive right to use or occupy, or

(ii) any common elements, as defined in the *Condominium Act*, in the multi-unit building. 2020, c. 5, s. 7.

Access zone - residence of physician or service provider

8 (1) The Governor in Council may, by regulation, establish an access zone for the residence of a physician who provides abortion services or for the residences of a class of physicians who provide abortion services.

(2) The Governor in Council may, by regulation, establish an access zone for the residence of a service provider or for the residences of a class of service providers.

(3) Subject to subsection (4), an access zone established under subsection (1) or (2) includes the parcel of land on which the residence is located and an area that extends a distance not exceeding 160 metres, as determined by the regulations, from the boundaries of the parcel of land on which the residence is located.

(4) An access zone established under subsection (1) or (2) does not include

(a) private property outside the parcel of land on which the residence is located, other than the private property that the physician or service provider owns or has an exclusive right to use or occupy;

(b) any portion of the parcel of land on which the residence is located that a person other than the physician or service provider has an exclusive right to use or occupy; or

(c) where the residence is located in a unit, as defined in the *Condominium Act*, in a multi-unit building,

(i) any unit in the multi-unit building that a person other than the physician or service provider owns or has exclusive right to use or occupy, or

(ii) any common elements, as defined in the *Condominium Act*, in the multi-unit building.

(5) A regulation referred to in subsection (1) or (2) may establish access zones with different dimensions for different residences or for the residences of different classes of physicians or service providers.

(6) A regulation may be made under subsection (1) or (2) only if the Governor in Council is of the opinion that activities referred to in this Act are being engaged in, and that the activities adversely affect access to, or the provision of, abortion services. 2020, c. 5, s. 8.

Access zone - physician's office

9 (1) The Governor in Council may, by regulation, establish an access zone for the office of a physician who provides abortion services or for the offices of a class of physicians who provide abortion services.

(2) Subject to subsection (3), an access zone established under subsection (1) includes the parcel of land on which the office is located and an area that extends a distance not exceeding 20 metres, as determined by the regulations, from the boundaries of the parcel of land on which the office is located.

(3) An access zone established under subsection (1) does not include

(a) private property outside the parcel of land on which the office is located, other than the private property that the physician owns or has an exclusive right to use or occupy;

(b) any portion of the parcel of land on which the office is located that a person other than the physician has an exclusive right to use or occupy; or

(c) where the office is located in a unit, as defined in the *Condominium Act*, in a multi-unit building,

(i) any unit in the multi-unit building that a person other than the physician owns or has exclusive right to use or occupy, or

(ii) any common elements, as defined in the *Condominium Act*, in the multi-unit building.

(4) A regulation referred to in subsection (1) may establish access zones with different dimensions for different offices or for the offices of different classes of physicians.

(5) A regulation may be made under subsection (1) only if the Governor in Council is of the opinion that activities referred to in this Act are being engaged in, and that the activities adversely affect access to, or the provision of, abortion services. 2020, c. 5, s. 9.

Offences and penalties

10 (1) Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction

(a) in the case of an individual,

(i) for a first offence, to a fine of not more than \$5,000 or to imprisonment for not more than six months, or to both a fine and imprisonment, and

(ii) for a second or subsequent offence, to a fine of not less than \$1,000 and not more than \$10,000 or to imprisonment for not more than one year, or to both a fine and imprisonment; or

(b) in the case of a corporation,

(i) for a first offence, to a fine of not more than \$25,000, and

(ii) for a second or subsequent offence, to a fine of not less than \$5,000 and not more than \$100,000.

(2) Where a corporation contravenes this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in clause (1)(a), whether or not the corporation has been prosecuted or convicted. 2020, c. 5, s. 10.

Notice

11 No person may be convicted of contravening subsection 3(1) or 4(1) unless the person knew or, at any time before the contravention, was given notice of the location of the access zone. 2020, c. 5, s. 11.

Recovery of damages

12 A person who suffers loss as a result of a contravention of, or failure to comply, with this Act by another person may recover damages from the other person for the loss. 2020, c. 5, s. 12.

Injunction

13 (1) On application by any person, including the Attorney General, the Supreme Court of Nova Scotia may grant an injunction to restrain a person from contravening this Act.

(2) An injunction may be granted under subsection (1) whether or not a penalty or other remedy is provided by this Act. 2020, c. 5, s. 13.

Plan or document as evidence

14 A plan or document that

(a) shows the location of an access zone; and

(b) is prepared by, or under the supervision, direction and control of, a Nova Scotia Land Surveyor as defined in the *Land Surveyors Act*,

is admissible in evidence in any judicial proceeding and is proof, in the absence of evidence to the contrary, of the information set out in the plan or document without proof of the signature or official character of the person appearing to have signed the plan or document. 2020, c. 5, s. 14.

Arrest

15 A police officer may arrest, without warrant, a person who the police officer believes on reasonable and probable grounds has committed or is committing an offence under this Act. 2020, c. 5, s. 15.

Regulations

16 (1) The Governor in Council may make regulations

(a) prescribing premises as a facility for the purpose of subclause 2(e)(v);

- (b) specifying facilities or classes of facilities for the purpose of subsection 7(1);
- (c) decreasing the dimensions of an access zone set out in subsection 7(2) in respect of a facility or a class of facilities;
- (d) increasing the dimensions of an access zone set out in subsection 7(2) in respect of a facility or class of facilities to a distance not exceeding 150 metres from the boundaries of the parcel of land on which the facility is located;
- (e) providing access zones of different dimensions for different facilities or classes of facilities;
- (f) specifying how to determine distances for the purpose of subsections 8(3) and 9(2);
- (g) defining any word or expression used but not defined in this Act;
- (h) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) A regulation may be made under clauses (1)(b) to (d) only if the Governor in Council is of the opinion that activities referred to in this Act are being engaged in, and that the activities adversely affect access to, or the provision of, abortion services. 2020, c. 5, s. 16.

Exercise of authority is regulation

17 The exercise by the Governor in Council of the authority contained in subsections 8(1) and (2), 9(1) and 16(1) is a regulation within the meaning of the *Regulations Act*. 2020, c. 5, s. 17.