

2018 Bill 9

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Fourth Session, 29th Legislature, 67 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 9**

## **PROTECTING CHOICE FOR WOMEN ACCESSING HEALTH CARE ACT**

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THE MINISTER OF HEALTH

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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## BILL 9

2018

### PROTECTING CHOICE FOR WOMEN ACCESSING HEALTH CARE ACT

(Assented to \_\_\_\_\_, 2018)

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Definitions**

**1** In this Act,

- (a) “abortion services” means lawful medical services or services within the practice of pharmacy provided for the termination of pregnancy;

- (b) “access zone” means a zone established under section 6, 7 or 8, as the case may be;
- (c) “distribute” means, when used in reference to a recording, knowingly publish, transmit, sell, advertise or otherwise make the recording available to a person other than the person in the recording;
- (d) “facility” means
  - (i) a hospital,
  - (ii) a clinic,
  - (iii) a pharmacy, or
  - (iv) premises specified or described in the regulations in which abortion services are provided;
- (e) “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, or
  - (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;
- (f) “parcel of land” means a parcel of land as defined in section 616 of the *Municipal Government Act*;
- (g) “patient” means a person who is in an access zone in the course of accessing abortion services and includes any other person, other than a physician who provides abortion services or a service provider, accompanying him or her;
- (h) “practice of pharmacy” means the practice of pharmacy as defined in the *Pharmacy and Drug Act*;

- (i) “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;
- (j) “residence” means the usual place where a person makes his or her home;
- (k) “service provider” means a person, other than a physician, who provides, or facilitates the provision of, abortion services.

**Activities restricted in access zone**

**2(1)** Subject to subsections (2) and (3), a person shall not do any of the following while in an access zone:

- (a) engage in interference;
- (b) engage in protest;
- (c) 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;
- (d) 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,as the case may be;
- (e) physically impede or attempt to impede the passage of a patient, a physician who provides abortion services or a service provider;

(f) 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 carrying out his or her duties.

(3) Subsection (1)(a) does not apply to a person who, at the time of the alleged contravention, was acting as

- (a) a patient,
- (b) a physician who provides abortion services, or
- (c) a service provider.

**No recording in access zone**

**3(1)** Subject to subsection (2), a person shall not 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 their behalf photographs, films, videotapes or makes any other type of audio, visual or audiovisual recording for the purposes of ensuring the security of the facility or office or the safety of the facility or office staff, patients or the public, or
- (b) a police officer carrying out his or her duties.

**No distribution of recording**

**4** A person shall not 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, where 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.

**No harassment**

**5(1)** A person shall not do any of the following for the purpose of dissuading a physician who provides abortion services or a service provider from providing, or facilitating the provision of, abortion services or for the purpose of dissuading another person from becoming a physician who provides abortion services or a service provider:

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

**(2)** A person shall not repeatedly communicate by telephone, mail, facsimile or electronic means with another person without his or her 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.

**Access zone — facility**

**6(1)** An access zone is established for every facility or class of facility specified, described or otherwise identified in the regulations.

**(2)** Subject to subsection (3) and the regulations, an access zone established under subsection (1) includes the parcel of land on which the facility is located and an area that extends a distance of 50 metres from the boundaries of the 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 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) if the facility is located in a unit described in a condominium plan under the *Condominium Property Act*,
  - (i) any unit that is described in the condominium plan that a person other than the owner or operator of the facility owns or has an exclusive right to use or occupy, or
  - (ii) any area of the common property that is described in the condominium plan that a person other than the owner or operator of the facility has an exclusive right to use or occupy.

**(4)** The Lieutenant Governor in Council may make regulations

- (a) specifying, describing or otherwise identifying facilities or classes of facilities to which an access zone established under subsection (1) applies;
- (b) decreasing the dimensions of an access zone set out in subsection (2) in respect of a facility or a class of facilities;
- (c) providing for access zones of different dimensions for different facilities or classes of facilities.

**(5)** A regulation may be made under subsection (4)(a) only if the Lieutenant 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.

**Access zone — residence of physician or service provider**

**7(1)** The Lieutenant 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 Lieutenant 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, as provided in the regulations, a distance not exceeding 160 metres 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 the following:

- (a) private property outside the parcel of land on which the residence is located, other than 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;
- (c) if the residence is located in a unit described in a condominium plan under the *Condominium Property Act*,
  - (i) any unit that is described in the condominium plan that a person other than the physician or service provider owns or has an exclusive right to use or occupy, or
  - (ii) any area of the common property that is described in the condominium plan that a person other than the physician or service provider has an exclusive right to use or occupy.

(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 Lieutenant 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.

**Access zone — physician's office**

**8(1)** The Lieutenant 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, as provided in the regulations, a distance not exceeding 20 metres 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 the following:

- (a) private property outside the parcel of land on which the office is located, other than 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;
- (c) if the office is located in a unit described in a condominium plan under the *Condominium Property Act*,
  - (i) any unit that is described in the condominium plan that a person other than the physician owns or has an exclusive right to use or occupy, or
  - (ii) any area of the common property that is described in the condominium plan that a person other than the physician has an exclusive right to use or occupy.

(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 Lieutenant 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.

#### **Notice**

9 No person may be convicted of contravening section 2(1) or 3(1) unless the person knew, or at any time before the contravention was given notice of, the location of the access zone.

#### **Damages**

10 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.

#### **Injunction**

11(1) On application by a person, including the Attorney General, the Court of Queen's Bench may grant an injunction to restrain another person from contravening a provision of this Act.

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

#### **Arrest**

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

#### **Offences and penalties**

13(1) A person who contravenes section 2(1), 3(1), 4 or 5 is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) is liable for a first offence

- (a) in the case of an individual, to a fine of not more than \$5000 or to a term of imprisonment of not more than 6 months, or to both a fine and imprisonment, or
- (b) in the case of a corporation, to a fine of not more than \$25 000.

**(3)** A person who is guilty of an offence under subsection (1) is liable for a subsequent offence

- (a) in the case of an individual, to a fine of not less than \$1000 and not more than \$10 000 or to a term of imprisonment of not more than one year, or to both a fine and imprisonment, or
- (b) in the case of a corporation, to a fine of not less than \$5000 and not more than \$100 000.

**(4)** Where a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of that offence and liable to the penalty provided under subsection (2)(a) or (3)(a), as the case may be, whether or not the corporation has been prosecuted or convicted of that offence.

**Plan, 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 personal supervision, direction and control of an Alberta land surveyor as defined in the *Land Surveyors Act* and is affixed with the Alberta land surveyor's signature or the stamp of a surveyor's corporation or surveyor's partnership 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 whose signature is affixed to the plan or document or proof of the stamp affixed to the plan or document.

**Regulations**

**15** The Lieutenant Governor in Council may make regulations

- (a) specifying or describing premises as a facility for the purposes of section 1(d);
- (b) defining a word or expression that is used but not defined in this Act;
- (c) generally, to give effect to the purpose of this Act.





**RECORD OF DEBATE**

Stage	Date	Member	From	To
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>
		<b>Questions and Comments</b>	<b>From</b>	<b>To</b>