

President; Hon Martin Aldridge; Hon Samantha Rowe; Hon Lorna Harper; Hon Sophia Moermond; Hon Donna Faragher; Hon Colin De Grussa; Hon Brad Pettitt; Hon Wilson Tucker; Hon Neil Thomson; Hon Peter Collier; Hon Dan Caddy; Hon Tjorn Sibma; Hon Nick Goiran

PUBLIC HEALTH AMENDMENT (SAFE ACCESS ZONES) BILL 2021

Statement by President

THE PRESIDENT (Hon Alanna Clohesy) [2.26 pm]: We are about to commence debate on the Public Health Amendment (Safe Access Zones) Bill 2021. This bill, by its policy content, may evoke emotive contributions, responses and views. Some of those views will be contentious to some members and not to others. I remind members that there are a wide range of views on this matter and ask that each of you consider all contributions to this debate with respect as you consider this bill in each of its stages.

Second Reading

Resumed from 24 June.

HON MARTIN ALDRIDGE (Agricultural) [2.29 pm]: I was a bit concerned that debate on this bill would lapse, so I am happy to assist the house in kicking off the second reading debate on the Public Health Amendment (Safe Access Zones) Bill 2021. I point out at the outset that I will be speaking entirely on my own behalf. The opposition does not hold a formal position on this matter and every member of the opposition is entitled to a conscience vote on this bill. That being said, I am not the lead speaker for anyone; I speak for myself.

This bill has had a fairly recent history. I want to set out some of the recent developments on this bill. Members who served in the last Parliament will be aware that a bill in fairly similar form was moved in this place; it was called the Public Health Amendment (Safe Access Zones) Bill 2020. Although similar in form, it was not in exactly the same form as the bill before us, which was made clear by the minister representing the Minister for Health in his response to parliamentary question without notice 316 on 17 June 2021, when I asked —

How does the bill differ from that which was introduced into the Legislative Assembly on 14 October 2020?

The minister's response was —

Besides a few editorial changes, only one minor change was made to the previous bill that was introduced into the Legislative Assembly last year—the removal of proposed section 306C, “Laying reports before House of Parliament not sitting”. It was a procedural provision not related to the substantial safe access zones provisions that required the minister to send their report on the review of the bill—prepared after its fifth anniversary—to the Clerk of the House, if, in the minister's opinion, a house of Parliament will not sit during the period of 21 days after finalisation of the report. That provision was originally added to the previous bill at the request of the Parliamentary Counsel's Office.

I guess in some respects a fairly minor and non-substantive change was made to the substance of the Public Health Amendment (Safe Access Zones) Bill before us. However, I have not had an opportunity, nor have I sought one, for a further briefing since I received the answer to that question. I had a briefing on both bills but I thought it was a matter on which I could probably get a response on the record from the minister responsible about what has changed between the 2020 vintage and the 2021 vintage of the bill concerning the provision for tabling a review five years after the bill has come into effect.

Members who have taken an interest in this bill will be aware that, for the first time in Western Australia, it will create the notion of a safe access zone not just within the bounds of a prescribed premises, but around premises at which abortions are administered. Also, in the interests of protecting privacy, it will prohibit the publication and distribution of certain recordings. It will also restrict certain prohibited behaviours within safe access zones.

At this point I would like to pause and say that when I had my first briefing on the 2020 bill, the High Court had considered the validity of the Victorian and Tasmanian legislation, if I am not mistaken. I think South Australia was in the throes of establishing a safe access regime in that state. If my memory serves me correctly, the bill had passed one house but not the other; it was before the Legislative Council of South Australia at that time. Obviously, time has elapsed and we now have before us the 2021 version of the bill. As I understand it, Western Australia is indeed the last jurisdiction in Australia to implement a regime of safe access zones. In some respects, that has allowed a number of things to occur. I will turn to the Department of Health consultation report shortly. That time has allowed us to have a very fulsome examination of the experience in other jurisdictions. It has also allowed us to reflect on the decision of the Full Bench of the High Court on the constitutional validity of the Victorian and Tasmanian legislation. I understand from my briefers that this legislation is modelled on the Victorian legislation.

When I prepare a contribution to the debate on bills, one of the first places I search is the government media statements on the media statements website. It is usually a useful source of information for identifying particularly historical statements from the government or, indeed, former governments on matters under consideration. On this occasion, I have been able to identify at least five media statements. They do not go back very far in time—only to 2019—but I guess they step out the process the government elected to identify in the issue it sought to address.

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It consulted with the community and created a consultation report, and, obviously, cabinet and government made a decision thereafter. I think that process is worthy of some respect. Unlike perhaps for some more recent government decisions, I think this process has been done in quite an orderly fashion.

As I said, on 8 March 2019, a media statement came from the Minister for Health. I think they were all joint media statements with the Minister for Women's Interests, Simone McGurk. Friday, 8 March 2019 was obviously the start of this process, with the government simply signalling its intent to introduce the concept of safe access zones around abortion clinics in Western Australia and that it intended to release a discussion paper and hold a public consultation process following the High Court decision. If we step forward a month, on 17 April 2019, public consultation began on the safe access zones regime, with the closing date for submissions being 31 May 2019. I think at that stage the High Court decision had been delivered only the week prior. It was early April when the High Court made a judgement, following which the government moved fairly swiftly to release its discussion paper and start the consultation process. Submissions closed at the end of May 2019, and in February 2020, the consultation report was released. That is a document I will refer to shortly because it sets out quite a number of the problems envisaged in crafting a legislative response to this issue. It was interesting to read some of the submissions on this issue within the report, not in their entirety but obviously paraphrased. On 10 February 2020, the government indicated that the legislation was being drafted following the public consultation regime, and on 14 October 2020, the government introduced a bill. The government media statement of 14 October coincided with the introduction of the bill into the Legislative Assembly. I will quote from just this media statement for now, entitled "New legislation to ensure Safe Access Zones for women", which states —

The Bill provides for a safe access zone which will include the protected premises, and any area within 150 metres of the boundary.

The zone will apply 24 hours a day, 7 days a week.

Within those zones, prohibited behaviours will include:

- harassing, intimidating and threatening a person accessing premises at which abortions are provided;
- communicating by any means in relation to abortion in a manner that can be seen or heard by a person accessing the premises and is reasonably likely to cause distress or anxiety;
- impeding a footpath, road or vehicle without reasonable excuse, in relation to abortion; and
- recording by any means, without reasonable excuse, another person accessing premises at which abortions are provided, without that other person's consent.

The Bill also prohibits a person from publishing and distributing recordings of another person accessing premises at which abortions are provided, if the recording could identify that person, without their consent or reasonable excuse.

Engaging in a prohibited behaviour in a safe access zone would attract a maximum penalty of \$12,000 and 12 months' imprisonment.

Obviously, the fifth of those media statements was issued on 26 May 2021, when the bill was reintroduced into the Legislative Assembly. I think it is fair to say that a bill being introduced in mid-October 2020, prior to an election in March the following year, was probably not going to progress very far. In fact, I do not think it was even transmitted. It looks like it passed the Legislative Assembly on 11 November 2020, but it was not received by the Legislative Council until 24 November 2020, which was obviously very late in the 2020 parliamentary calendar year, particularly ahead of a general election. This bill is perhaps receiving higher priority, with its introduction in the Legislative Assembly on 26 May 2021 and receipt in this place on 24 June 2021. We are now here in early August debating the second reading of this bill.

I might speak about consultation first because it leads to some of the correspondence that I have received on this bill. For members who are following this debate, a document from the Department of Health is worthy of their consideration. It is titled *Safe access zones—A proposal for reform in Western Australia: Report 2020*. This was the finalisation of the public consultation process. It succeeded the discussion paper that was initially released, on which the public was consulted. It is the report on which the government then made decisions. I am not going to go through this report extensively, but the place I want to start is around the number of submissions. I think it was also quoted in the second reading speech. Page 4 of the report states —

The DOH received an extraordinary level of community and industry engagement with the proposal, including 235 email and paper submissions and 3,949 engagements through the online survey. Over 40 public and private organisations made submissions. There were 3,311 (83.8%) respondents to the

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survey who identified themselves as WA residents, which is indicative of the importance of the proposal for the community.

Appendix 2, at the back of the report, lists organisations and campaigns. They probably would not number more than 30. I suspect that there were probably a lot of generic campaign submissions, as members who have served on parliamentary committee inquiries and the like would tend to expect. I have not found where this report isolates those generic responses from unique submissions, but it would be interesting to know. The Do Gooder campaign is listed in the list of organisations and campaigns at appendix 2. I am sure members will have received contact from the same style of campaign in recent weeks, with the reintroduction of the bill into Parliament.

The start of the report sets out seven recommendations. They are —

Recommendation 1: Safe access zones legislation should be introduced in Western Australia.

Recommendation 2: Safe access zones should apply to premises at which abortions are provided.

Recommendation 3: The scope of the zones should be defined to be the protected premises and an area within 150 metres from the boundaries of the protected premises.

Recommendation 4: A safe access zone should operate 24 hours-a-day, 7 days-a-week.

Recommendation 5: The definition of ‘prohibited behaviour’ should be modelled on Victoria’s definition of ‘prohibited behaviour’ in its *Public Health and Wellbeing Act 2008* ...

Recommendation 6: The legislation should not provide for exemptions.

I pause at the sixth recommendation because I would like to explore this aspect of the bill a little further in my second reading contribution, because, if I am not mistaken, there are three “reasonable excuse” provisions in the bill. Although we may not technically call them an exemption, I think they give rise to an exemption in certain circumstances—and I think quite properly. I am not criticising the provisions. The explanatory memorandum sets out four examples of what a reasonable excuse might be. In the context of a court interpreting this bill, I would be interested to know to what extent that which is set out in the explanatory memorandum on the reasonable excuse provisions will inform a judge or a magistrate presiding over a matter in which someone has been charged with an offence. I am interested in whether this will achieve or partially achieve recommendation 6 with respect to exemptions.

The final recommendation is —

Recommendation 7: The legislation should provide for a maximum penalty of a fine of \$12,000 and 12 months imprisonment for engaging in prohibited behaviour in a safe access zone and publication of —

Visual data without consent.

As far as I can tell, notwithstanding my comments on recommendation 6, as far as I can see, all those recommendations have been achieved in drafting both the 2020 and 2021 bills.

Before I turn to that, for members who may not be aware or who may not have had the opportunity of a briefing, it is also interesting to note that page 7 of this report sets out the places that will be captured by this bill—for example, the places that provide abortions or abortion-related services in Western Australia. Figure 1 on page 7, “Percentage of notifications of abortions by type of health service in WA”, shows that 83 per cent of abortions were provided in two metropolitan private abortion clinics. One is based in Midland and the other in Rivervale, as members would be aware. By comparison, only three per cent of total abortions were carried out in metropolitan hospitals. Four per cent were carried out in rural public hospitals and 10 per cent were via telehealth and general practice. Those figures are interesting. I guess they set the scene of the context for this problem. I am not sure whether I will come across it later, but I have seen a higher figure of 98 per cent quoted. It might be in one of the pieces of correspondence that I will speak to later.

When I had a briefing on the first occasion, I was told that the bill would capture 45 locations in Western Australia. In effect, it would create a safe access zone around 45 premises in Western Australia, two of which are the private clinics I have just identified and where, I think it is accepted, the problem is. Notwithstanding that, this bill will apply to a number of additional places in Western Australia; in fact, this will apply to most of our public hospitals, notwithstanding that the problem that the government is seeking to address does not exist there.

At this point I want to talk about the current regulatory regime. Certainly this was the first occasion on which I became aware of a piece of our statutory law called the Public Order in Streets Act 1984. It is probably not an act that is regularly referred to, because when I went to the Legislative Council office today to ask for it, they had to print it out for me. That is probably an indication of one of two things—that it is either in hot demand ahead of

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today's debate on the Public Health Amendment (Safe Access Zones) Bill 2021, or that it is not frequently requested by members in the consideration of their duties.

As I understand it, a permit regime exists with the Western Australia Police Force that falls under the Public Order in Streets Act 1984, and that comes through with regard to the Department of Health's consultation report of 2020, *Safe access zones—A proposal for reform in Western Australia*. I have some concerns about the extent to which we are going to replace or add to an existing regulation with another, and the extent to which that will actually address the problem. I am sure it will have a positive effect in terms of changing behaviour at these two clinics, but the concern I have is that this permit process regime is currently administered by Western Australia Police Force and the new regime, under this bill, will also be administered by Western Australia Police Force. There is some good commentary at page 20 of this consultation report on the existing regulatory framework, and I want to quote a paragraph from it. It states —

WA Police provided some information about breaches of permits and the number of call outs by police officers to attend tasks at Marie Stopes WA and Nanyara Medical Group premises. Breaches are dealt with by police officers as they see fit when they attend. Any incidents are assessed and adjustments to conditions on permits may be made to maintain order in the streets for future prayer vigils. WA Police gave DOH —

Which is the Department of Health —

details of 75 police attendance tasks and 14 offences recorded at Marie Stopes WA clinics and Nanyara Medical Group between 2014 and 2019. It was noted that some of these tasks may not be related to demonstrator behaviour. The number of tasks recorded is also higher than the number of offences recorded; where no criminal activity is uncovered, the incident may be resolved without an offence being recorded. WA Police also advised that patients do not normally wish to take a matter any further as they want to move on and put this part of their life behind them. Furthermore, it can be hard to prove that the behaviour occurring outside these premises satisfies the regulatory criteria to act.

For example, while Move On powers are available under the *Criminal Investigations Act 2006*, the police officer must 'reasonably suspect' that the person in question is:

- doing, or is about to do, an act that is likely to involve the use of violence against a person
- doing, or is about to do, an act that will or is likely to cause a person to use violence against another person
- doing, or about to do any act that will or is likely to cause a person to fear that violence will be used by a person against another person
- committing a breach of the peace
- hindering, obstructing or preventing lawful activity being carried out by another person
- intending to commit, or has just committed, an offence
- committing an offence.

A police officer can also only issue a Move On Order to one person at a time and a Move On Order can only be issued for a maximum of 24 hours.

With regard to understanding the existing regulatory regime I posed the question: what is preventing the police from not issuing these permits? As I understand it, up to 40 permits per year are issued by Western Australia Police Force for the purposes of procession to prayer vigils and peaceful prayer vigils at locations in front of the two main private abortion clinics in Western Australia. My first briefing was back in 2020, so I cannot recall exactly the answer to that question, but I think it was in respect of the decisions of Western Australia Police Force. There is some sort of policy, and they have to be able to defend at what point they permit a certain activity or not. Obviously, they are cautious about making decisions that are subjective rather than objective. I think that was the type of answer I received, but that is certainly something I would like to gain an understanding of from the minister, around the extent to which the existing regime is deficient.

In most cases, these are fairly peaceful protests and I have no reason to believe that if this bill becomes law, these people will seek to break that law. I do not know that, but my concern goes to the ability of the police to manage potential offences. When we think about the pressure on policing, what sort of priority would these sorts of responses be given by Western Australia Police Force, should the need arise, under either the existing regime or the future regime? It is clear that the police do respond, because there are references in this consultation report to responses and data with regard to charges arising from those responses, some of which I just read out.

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I turn now to the issue of exemptions, which I flagged earlier in my contribution. This has arisen as a bit of a theme throughout my research on this issue. Chapter 8 of this consultation report sets out a number of the issues. The survey that was conducted asked a number of questions, and one was with regard to exemptions. It states —

Should the legislation specifically exclude the application of the buffer zone in certain circumstances?

- (a) **Exclude conduct occurring at a church or another religious institution**
- (b) **Exclude conduct occurring outside Parliament or Government buildings**
- (c) **Exclude carrying out of an opinion poll or survey during an election, referendum or plebiscite**
- (d) **There should be no exemptions**
- (e) **Other (please provide detail).**

A total of 2 263 respondents to this survey, which equates to 77.3 per cent, said that there should be no exemptions provided under a legislative response. It is interesting to read the Department of Health's analysis that led to recommendation 6, which is that the legislation should not provide for exemptions. I will quote from that now. It states —

The question of whether exemptions should be included was carefully considered to ensure the purpose of the legislation was not undermined.

In Australia, NSW is the only jurisdiction in which safe access zones legislation specifically includes exemptions for:

- conduct occurring in a church, or other building, that is ordinarily used for religious worship, or within the curtilage of such a church or building
- conduct occurring in the forecourt of, or on the footpath or road outside, Parliament House
- the carrying out of any survey or opinion poll by, or with the authority of, a candidate, or the distribution of any handbill or leaflet by or with the authority of a candidate, during the course of a Commonwealth, State or Local Government election, referendum or plebiscite.

The DOH has noted that in *Clubb v Edwards*, Kiefel CJ, Bell J and Keane J rejected an argument that 'the extent of the burden might have been reduced by providing for an exception to the prohibition during election campaigns'. It was commented that 'in the nature of things the need for abortion services and the anxiety and distress associated with accessing these services is not lessened during election campaigns. If anything, the contrary is likely to be the case'.

Other exemptions that the DOH has specifically considered are exemptions for staff and persons accompanying a patient to the protected premises; persons employed or contracted to provide services at or near the protected premises acting reasonably in the provisions of those services; persons involved in lawful industrial action outside protected premises; and exemptions for police officers acting reasonably in the course of their duties. However, the DOH considers the definition of 'prohibited behaviour' in Victoria's legislation adequately caters for these circumstances and provides enough flexibility to ensure it will not capture other unintended behaviours.

While there are several churches and other religious institutions in WA that will fall within a proposed safe access zone, the DOH considers that conduct occurring in a church or other religious institution, (such as abortion-related meetings or sermons) will not be captured by the proposed definition of 'prohibited behaviour'.

Therefore, without further evidence of need, the DOH does not consider it necessary to provide for specific exemptions in the legislation.

Helpfully, an Australian jurisdictional comparison is at appendix 1 of this report. Members will see that in many respects this bill mirrors, if not entirely, but significantly, the regimes in other jurisdictions. It is interesting that New South Wales has created these categories of exemption, particularly with regard to Parliament. I do not think that is a problem that currently exists in Western Australia. It may well be an issue in New South Wales, I am not sure, but a future consequence of the passage of this legislation could be that the application of a 150-metre buffer zone falls within the precincts of Parliament.

I would like to understand how the government will determine the "reasonable excuse" provisions. There is some greater detail in the explanatory memorandum by way of examples of the reasonable excuse provision. I probably will not have time today to elaborate. If members turn to page 2 of the explanatory memorandum, they will see

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listed four examples of “a reasonable excuse” with respect to proposed section 202P(2)(c) and (d). As I said, I will not go into those in detail, but it is probably something that we will explore during the committee stage of this bill.

I turn now to some of the correspondence that I have received about this bill. Particularly given the subject matter of this bill, the correspondence that I have received has not been plentiful. Maybe other members have had different experiences. I will be interested to know, when other contributions are made, whether those experiences have been different. There was quite a significant response to the public consultation process that was undertaken by the government. There were nearly 4 000 submissions or responses to surveys. There were 3 949 engagements, including submissions and survey responses. I have received only a handful of correspondence about this issue. As I said, some of those were in the last week or two throughout the months of July and August. They have come from a Do Gooder campaign. Each submission to me was identical, but obviously people have written to me in support of the bill. I do not have time to read the submissions—the three of them were identical—but there is a sentence in this email that says —

I am also concerned that WA’s out-of-date abortion laws cause unnecessary distress, delay and denial of abortion care.

That was not expanded on in these emails to me. I have reflected on these in the last 48 hours but I have not had a chance to go back to any of these people who have corresponded with me to understand what other aspects of the laws are deficient. Obviously, we are being asked to regulate safe access zones but I do not think that goes to the issue that has been identified in these emails with regard to “WA’s out-of-date abortion laws cause unnecessary distress, delay and denial of abortion care”.

There was also some correspondence that I thought was quite useful from Marie Stopes Australia, which I received in August 2020. I am sure all members, or members who were members of this place at that time, would have received similar correspondence. It actually provided quite localised information for me. In the interests of time, I will quote selectively from a two-page letter. It states —

Last year, 645 people from the Agricultural region, clients at Marie Stopes Australia’s Midland Clinic, were subjected to these picketers. That is to say, they were provided services for contraception, surgical and medical termination of pregnancy on days when these picketers were camped at the entrance to the clinic.

It is interesting that it was able to provide quite specific information about not only the number of people from my constituency, but also the number of people from my constituency who were subjected to the actions of people engaging in these types of protest during their visit to the Midland clinic. The letter went on to say —

The picketing activity, while deemed harmless by the attendees, has a profound impact on the psychological wellbeing of both staff and patients. In 2017 and 2018, inundated by the number of patient complaints about the protestors, we collected anonymous feedback from patients and their support people as to the impact of protestor presence. I have attached a log of this information. We continue to gather feedback this year and will present it to Parliament in the coming weeks.

The letter goes on to talk about the relationship with police and the work of other state and territory jurisdictions in respect of safe access zones, and also the High Court judgement that I spoke about earlier. When reading through this log that was provided and some of the actions that patients or potential patients attending this clinic were subjected to, I must say it is deeply concerning. Given the circumstances in which patients attend these clinics to access services, some of the things that have been said or done, according to the information that I have received, gives rise to strong concern, and I suspect is the reason why the government has acted by introducing this bill.

The Australian Medical Association also made a submission on the proposal for reform in Western Australia. In the interests of time, I will direct members to consider its short submission over three pages that effectively supports the regime that is being introduced and that we are considering today in the Legislative Council. However, the AMA has gone one step further by saying that the concept of protecting the rights of patients to access health care without harassment or interference should be extended beyond the services that are contemplated by this bill. It made an argument for a broader level of application, which I think would be a much more difficult task. This is perhaps the first step in contemplating future change. I accept the argument that it makes. The final paragraph of its submission states —

The AMA (WA) would support reasonable application of ‘safe access zones’ to any healthcare facility, not just limited to premises that provide abortion services, provided there was a need to enable and protect unobstructed access for patients and facility staff, or prevent behaviour that is intended to discourage individuals from accessing legally available healthcare services.

I am running out of time but I want to put one more issue on the record, which hopefully the minister can contemplate before he gives his response to the second reading debate, and that is the 150-metre rule. I notice it was something

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that was considered in the course of the consideration in the other place. I want to know to what extent the government has contemplated the practical implications of the 150-metre rule, both in terms of those people who want to lawfully protest once this bill passes, or somebody who is going to be making a judgement about whether an offence has been committed, whether that be a police officer or a court. I do not want to trivialise this matter, but if I could draw a comparison here, we all have a six-metre rule that we have to abide by around polling places in Western Australia. I see the argy-bargy that exists on polling day between polling day workers and polling day officials; it has almost become a bit of a sport. There is a six-metre rule there. I would like to understand, particularly given it is probably more of an implementation issue and given the limited number of places where this is a problem, how we are going to make sure of this. We are looking at two private clinics in Western Australia where this problem exists, noting that they provide the majority of the services. That is why the protests have been focused at these two centres.

I have well and truly run out of time on this matter and I certainly could have spoken for longer, but I want to quote the final sentence of the second reading speech, which says —

The McGowan government believes that the right to safety, privacy, dignity and respect for women accessing health care, especially during what is a very difficult time, is a right that should be protected by this Parliament.

I support those words and I will support this bill.

HON SAMANTHA ROWE (East Metropolitan — Parliamentary Secretary) [3.13 pm]: I thank members for the opportunity to make a contribution this afternoon on what is a very important piece of legislation before the house, the Public Health Amendment (Safe Access Zones) Bill 2021. I am really pleased to rise today to place on the record my support for this legislation, which is going to provide safe access around premises where abortions are provided. This will protect the safety, wellbeing, privacy and dignity of women who are going to choose to terminate their child. The bill aims to deal with the ongoing instances of women being confronted by protesters and the anxiety and distress that that causes, to not only the patients who are accessing these clinics, but also the staff who work in these clinics. I congratulate the Minister for Health, Hon Roger Cook, for introducing this bill early on in this term. The passing of this bill will bring WA in line with the other jurisdictions in this country that have already passed into law the provision of safe access zones.

I refer briefly to the second reading speech, which notes that the bill —

... has been modelled on the equivalent legislation in Victoria, which withstood a challenge in the High Court in *Clubb v Edwards*. The High Court decided that safe access zones do not impermissibly infringe the implied freedom of political communication and that such legislation is constitutionally valid. In addition, reports from clinics indicate that the Victorian model works in achieving the objectives of the legislation in facilitating a safe environment for women to access abortion services.

I have to say that I am really proud to be part of this Labor government that is introducing this legislation to Parliament and to have a Minister for Health who is absolutely serious about women's reproductive rights in this state and protecting women from harassment when they want to access abortion services. I think that is really important.

I would like to share with the chamber a personal story from a constituent of mine, Jessica Williams. She has given permission for me to share her story. Her story has already been made public in an ABC online news article on 26 March 2019. Jessica is the founder of Western Australians for Safe Access Zones, which led the campaign for this legislation over some two years. When Jessica left an abortion clinic in Perth, she was upset and in pain. On top of that she was being called a murderer by pro-life protesters waiting outside the clinic. The article states —

The 36-year-old mother said she and her husband were confident they had made the right decision to terminate their pregnancy in 2013, but she still felt heavy with emotion.

“Sadness, grief, loss, confusion, doubt, hatred for myself,” Ms Williams said.

“Carrying all of those emotions in [to the clinic] and then being confronted with people that are calling you a murderer [and] grown men calling out to you to not kill your baby, is extremely traumatic.

...

“When you are already making a decision that can carry with it a lot of grief and mental, physical and emotional trauma, it can be very overwhelming and can have really disastrous consequences.”

...

Ms Williams said a safe zone would have made “a world of difference” to her experience at the ... abortion clinic in Rivervale.

“It would have been like going to your dentist or going to your GP, like any other normal medical appointment,” she said.

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“I think it is very important to note that with safe access zones we are not impeding on their right to protest. They can still protest, they do not need to be right outside the clinic in order to express that right.”

I want to thank Jessica for allowing me to share her story. I know that she still has to deal with the trauma from those confrontations that she experienced in 2013.

In New South Wales, Penny Sharpe from the Labor Party was heavily involved with the passage of the safe access zone legislation in New South Wales. In her final second reading debate contribution, which was on 24 May in 2018, she very succinctly said —

Women should be able to go to the doctor and not have to explain themselves to strangers on the street. They should not have to be photographed. Their boyfriends should not have to be jostled. They should not be filmed. They should not be assaulted. They should not be called “baby murderers”. They should not be told they are going to hell. They should not be told that they should be repenting their sins. They should just be able to go to the doctor.

Accessing abortion services is a legal medical procedure and no-one has the right to stand in judgement of any woman but especially those women who choose to access those services.

HON LORNA HARPER (East Metropolitan) [3.19 pm]: I, too, rise today and am privileged to rise today to speak about my support for the Public Health Amendment (Safe Access Zones) Bill 2021. I live in the East Metropolitan area and will probably refer to Midland as that is the area where I generally am. I heard my honourable colleague mention that 150 metres might be too far. My apologies if I said that incorrectly—I am paraphrasing. I was referring to the 150-metre zone in response to the question: why should the safe access zone be 150 metres?

As I have mentioned, my daughter has suffered from mental health issues. She used to attend headspace Midland, which is on the same street as Marie Stopes Midland, which offers abortions, among other services. As a teenage girl, it is quite confronting to walk down a street with people campaigning and shouting out things not knowing that you are there for mental health reasons. Headspace moved, thankfully, but on the same street we have the child and adolescent mental health service, so people accessing that service also have to walk past this. Whether the people protesting actually speak to the clients of CAMHS is irrelevant—the clients are exposed to it. We are talking about young children who are already with mental health services. Other services are on the street as well.

People accessing a legal medical procedure should not have to undergo any kind of interference. Unfortunately, in Midland, we have no option but to go to the private provider, as the public hospital, St John of God Midland Public Hospital, does not offer this service. Remember that these clinics offer not only abortions, but also other procedures, including vasectomies, which, I believe, is also not offered at St John of God Midland.

This is such a serious and important piece of legislation to protect people in Western Australia, women in particular and, of course, we cannot forget the staff, from being mentally and verbally abused by people who disagree with them. We all have the right to disagree with each other, but how we go about the business of disagreement is how we should be reflected in society. I know those words came out funny, but in my head it sounded perfectly sensible! Therefore, I, too, stand to support this bill. I am really, really happy and proud to be part of the government that has put forward this essential legislation.

HON SOPHIA MOERMOND (South West) [3.23 pm]: Today I would like to congratulate the government on the amazing Public Health Amendment (Safe Access Zones) Bill 2021, which is for the protection of women and girls in regard to safe access to reproductive health care. I would especially like to acknowledge the work of my friend Jessica Williams, who, I know, put an incredible amount of effort into getting this bill here.

One of the myths about abortion that is often promoted as truth is that women have regret about their abortion. It turns out that most women—it is stated that it sits at 95 per cent—think that it was the best decision that they could have made for themselves and the possible future of that child. I am aware that people will not agree with me on this, and I am also aware that people are protesting out the front of Parliament House to stop this bill from going through. I am curious about how it must feel to have your antisocial behaviour, which targets vulnerable women and girls, require extra laws to be drafted. Imagine thinking that this behaviour would ever place someone on the right side of history, especially when we look at the over-representation of rapists in our federal government. I do not see anyone out there protesting that.

If you do not agree with abortions, do not have one. “Not your womb” means not your business. It really is that simple. Thank you to all those involved in creating a safer environment for women and girls.

HON DONNA FARAGHER (East Metropolitan) [3.24 pm]: I rise to make a few brief comments on the Public Health Amendment (Safe Access Zones) Bill 2021. As has already been identified by Hon Martin Aldridge, both the Nationals WA and the Parliamentary Liberal Party have not taken a formal position on this bill; rather, it is a matter for individual members to form a view according to their conscience.

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In coming to my position on this bill, I appreciate that there are very firmly held views both for and against abortion, and I respect that. Indeed, this very chamber, long before my time, has played host to hours and hours of debate on this incredibly sensitive matter. Having said that, the bill that is currently before us is not about whether abortion should be legal; rather, it is about whether members of this house support a bill that provides for safe access zones around premises at which abortions are provided.

As has been identified by Hon Martin Aldridge, presently, gatherings or demonstrations—whatever members want to call them—outside these premises are regulated through the Western Australia Police Force, which issues permits. I understand that up to 40 permits—there could be more, but on average—a year are issued. Under the Criminal Investigation Act 2006, WA police can also issue move-on orders. As I understand it, the permits are issued to one person but on behalf of an entity. Up to 30 people can be approved to participate; albeit—I do not have the facts in front of me—the numbers can be higher than that on occasion.

The purpose of this bill is to insert new part 12C into the Public Health Act 2016. I will quote from the bill —

The purpose of this Part is —

- (a) to provide for safe access zones around premises at which abortions are provided so as to protect the safety and wellbeing, and respect the privacy and dignity, of —
 - (i) persons accessing the services provided at those premises; and
 - (ii) employees and other persons who need to access those premises in the course of their duties and responsibilities;
- (b) to prohibit publication and distribution of certain recordings.

The bill will not in itself ban gatherings in total, but it does set a parameter—that being, the establishment of a 150-metre boundary around the premises. The bill will also set out actions not permitted to be undertaken within that boundary, and that is set out in proposed new section 202P. The bill will also create an offence to publish or distribute recordings without the consent of another person or without a reasonable excuse, and that is set out in proposed new section 202Q.

In forming my position on this bill, I have read the 2020 Department of Health report titled *Safe access zones—A proposal for reform in Western Australia*. I, too, like other members, have received confidential testimonies from patients and their support persons and staff who have shared their experiences. I also want to thank members of the community who have taken the time to contact me to express their views on this legislation whether it is for the legislation or against it. I accept that there are two options that can be considered when considering this matter. These were the subject of the discussion paper that preceded the 2020 report. They are to maintain the status quo, or to introduce the legislation that has now been brought before the house.

In coming to my position on this bill, it is my very strong view that a person who is accessing any health or medical service, irrespective of the reason, should be able to do so with privacy and respect. They should not expect to receive uninvited engagement, whether it is through a direct approach or by other means, from people whom, with all due respect, they do not know, but who by the very nature of their actions are inviting themselves into someone else's personal space. Those people cannot possibly know the circumstances around why the person is accessing that service. They cannot possibly know the state of the person's health, mental health or wellbeing. They cannot possibly know the person's level of emotional distress, anxiety and grief. In my view, to be frank, they simply cannot possibly know what is going on in the person's life at that point in time. Put simply, every person has a right to privacy. That is particularly the case as it relates to accessing health services. In my view, and in the context of this bill, that is paramount.

I accept that there are deeply divided views on the issue of abortion. There will be different views in this house. As I said at the beginning of my contribution, this house has seen hours and hours of debate on this incredibly sensitive topic. Despite that debate, there will still be different views. I would like to think that as a house and as members, and as a community, we can be respectful of both sides of the argument. As I have said, in coming to my decision on this bill, this bill is not about the legality of abortion; it is about protecting the privacy and dignity of those in our community who seek to access these services.

Some members have reflected on the judgement of the High Court of Australia in April 2019. I want to quote one aspect of that judgement. It is at page 23, paragraph 84, and it states in part —

A measure that seeks to ensure that women seeking a safe termination are not driven to less safe procedures by being subjected to shaming behaviour or by the fear of the loss of privacy is a rational response to a serious public health issue. The issue has particular significance in the case of those who, by reason of

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the condition that gives rise to their need for healthcare, are vulnerable to attempts to hinder their free exercise of choice in that respect.

It is for those reasons that I will be supporting the bill.

HON COLIN de GRUSSA (Agricultural — Deputy Leader of the Opposition) [3.33 pm]: I, too, rise to make a brief comment on the Public Health Amendment (Safe Access Zones) Bill 2021. At the outset, I obviously acknowledge my colleagues who have said that members on this side have a conscience vote on this issue. I recognise that for some, this is a very challenging subject, but, for me, my conscience is clear. I will be supporting this legislation. It is absolutely imperative that we do all we can to protect those most vulnerable in our society. In this case, when women arrive at such a profound decision as to seek an abortion, it is absolutely critical that we offer them all the support we can in keeping them safe and offering them the opportunity to access those services with dignity and confidentiality.

As I understand it, Western Australia will be the last state to legislate this provision. It is good that we are getting on with it. It is important. Those members who were in the last Parliament would know, because I have spoken about it in this Parliament, that I am a dad to five daughters. I obviously hope that none of my daughters would ever have to make a decision about abortion, but, if they did choose to do that, I would want them to be able to access those services knowing that they would not be confronted and could access those services with dignity and respect. I cannot imagine how difficult it would be for any woman to make that decision.

I will not speak for any longer, other than to say that I absolutely support this legislation. It is imperative that we provide that protection for people who access these services. I cannot imagine the anguish that people go through in choosing to have an abortion, and they should be afforded every protection once they have made that decision.

HON DR BRAD PETTITT (South Metropolitan) [3.36 pm]: I also rise to speak in support of the Public Health Amendment (Safe Access Zones) Bill 2021. I want to acknowledge, as have other members in this house, that this is a difficult bill for some. It is my view, and that of the Greens, that the purpose of this bill is quite clear. It is to protect women's access to health services and workplace safety. This is not a bill about protesters, as demonstrated by the fact that the corresponding offences are located in the Public Health Act, not the Criminal Code. This is an important distinction. As most members would be aware, the Greens is a political party with its roots firmly in the protest movement, be it the Franklin River in the 1970s or, more recently, nuclear disarmament. Protest is something that the Greens party is proud to support, because it is very much part of a healthy, functioning democracy.

This bill is not about that. It is not about prohibiting protest. Rather, it is about providing a safe place for patients to access medical services—patients who, as members have heard, are often vulnerable, distressed or in an anxious state, and do not need to be exposed to any additional distress or potential harm for accessing legal medical services.

I want to quote Dr Philip Goldstone, the medical director of Marie Stopes Australia, who wrote on this matter —

Running a network of clinics across the country, we see what a difference safe access zones make to the health and welfare of patients ...

Our staff come to work each day without being shouted at and harassed. But women living in Western Australia ... do not have this basic right.

Women in this state deserve to be given this basic right. I am hopeful that Western Australia can now join the other states and territories by having safe access zones legislated around these clinics. As other members of this place and other places have noted, pregnancy termination is not the only health service that these clinics provide. It has been harrowing to hear many people's experiences in trying to access these services.

In closing, nobody should have to fear being bullied, harassed or intimidated when trying to access medical services, or just when going to work. I am hopeful that this bill will provide the protections that women who access these services need.

HON WILSON TUCKER (Mining and Pastoral) [3.38 pm]: I rise today to support the Public Health Amendment (Safe Access Zones) Bill 2021 and to make some brief comments on this topic. As has been pointed out by other speakers, this bill seeks to prevent harassment and protect the privacy of women accessing a health service that they have every right to access, as well as protect the staff of abortion clinics around Western Australia from harassment and intimidation.

I would like to draw attention to the HealthyWA report on safe access zones, which makes mention of well-intentioned protesters with various views who are seeking to offer counselling and advice, whether solicited or not. This bill first and foremost seeks to protect the safety and wellbeing of vulnerable members of our community from the vocal and less well-intentioned minority, which I think is the right move and the right balance to strike.

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I will make some points on the timing of this bill. As has been pointed out, WA will be the last jurisdiction to pass this legislation. Tasmania passed similar legislation in 2013, the ACT and Victoria in 2015, and the Northern Territory in 2017, so it has been eight years since the first legislation on this was passed. Last year in a media statement, the government said, and I quote, “It is time to bring WA into line with the rest of the country.” That statement was made over nine months ago. WA is living up to its “Wait Awhile” mantra, but I am glad to see this bill before the house.

I also note this bill is modelled on the 2020 HealthyWA, *Safe access zones—A proposal for reform in Western Australia*, which is modelled on the Victorian regulations. I will be interested to ask questions during Committee of the Whole House about whether this legislation and the 150-metre rule is flexible enough and fit for purpose for WA. I draw attention to the mention in this report that the 150-metre rule ensures patients and staff cannot be recorded with advanced technological devices. We all know that technological innovation moves quickly and something that is considered advanced can in the future become a legacy. It will be interesting to see whether this rule is applicable in the future. I know that the ACT legislation has an inbuilt head of power clause that gives flexibility in the future. It seems that the WA bill is a little more stringent. Saying that, I support the bill and look forward to scrutinising it further during Committee of the Whole.

HON NEIL THOMSON (Mining and Pastoral) [3.41 pm]: I offer up a few words to put my position on the issue of abortion in general. Before I do that, I want to make clear that I deeply appreciate the comments that have been made by all members here today and I have an incredible sense of feeling toward those women who make those difficult choices in their lives. Certainly, I would be very saddened to think that at any point in anyone’s life, particularly a woman who was choosing to undergo a termination, for whatever reason, would be subject to any form of intimidation, harassment or be caused any distress in that process. In saying that, I want to put on record my position on the right-to-life issue. I would call myself someone who is personally pro-life. As a man, that is not an issue I have to face personally, other than I know many women who hold that view very dearly and I have great respect for their view. The issue of the child is also vitally important. I would like to see in society fewer abortions. I would like to see in society a greater respect for the unborn child. I would like to see the provision of more choices for women who have to make that difficult choice, either with finance or housing support. I would like to see that occur.

I have heard the debate in this place today. I came to this place without a position, other than wanting to put my view on the record. I came not knowing which way to vote on this issue. I have been present at many passionate debates on this matter, but I have felt it was not my place to contribute to those debates. I have listened to many very passionate and articulate women who have spoken both for and against this issue. I find it hard to make a decision on this issue, but I felt it was only fair to all those present to at least state my position on the life issue; and, in saying that, I hope members understand that is my position and it comes from a place of integrity and honesty to you. I am not really sure what to do on the vote today. I leave it at that today.

HON PETER COLLIER (North Metropolitan) [3.47 pm]: I want to make a few comments on the Public Health Amendment (Safe Access Zones) Bill 2021. As the President quite rightly pointed out, this is an extraordinarily emotive issue, but I want to make perfectly clear that it is not a debate on abortion. We have had that debate; that debate is long gone. This debate is about whether we have a 150-metre safe access zone to those health facilities that provide women with the opportunity to terminate their pregnancy, which is their decision. It is their decision alone, or in concert with their partner, or their friends and family. It is their decision.

As we have moved on into the twenty-first century some things that have become more profound than ever are the power of the word, the power of the voice and the power of labelling in absolutely every aspect of our life. As an education minister for almost six years, one of the biggest issues the education sector had to confront, particularly over the last 20 years, is the more sophisticated methodology of bullying. In my day in the rough and tumble of Kalgoorlie, bullying was a punch in the shoulder or a push and a shove. It is not that at all now. Bullies have become much more sophisticated. The reason they have become much more sophisticated is because they are using the power of multimedia. Victims of bullying suffer in silence because of the power of the word, and people are made to feel diminished as a direct result of the words around them. Many children suffer in silence in a complex environment. The world is a battlefield and those children suffer with self-esteem and resilience as a direct result of the words of others. That happens! It has happened everywhere. In our wonderful, now multicultural society that has taken us over 50 years to achieve, we still suffer from it, and the words of one particular race condemn or diminish the views or attitudes of another race. One of the great things about the citizenship ceremonies that I and all members attend is that we have this plethora of different cultures being drawn together in a great tapestry by that one word, which is “Australia”. That is what we are now. We have become much more of a rich, tolerant, multicultural society. The words that have been used for decades and decades to diminish a particular race from another nation are gradually becoming a thing of the past.

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Another aspect of the power of words has been with us, particularly over the last 48 hours when we saw a footballer from Adelaide make a very racist comment against an Aboriginal man. I watched his apology last night and he was very contrite. I hope it was sincere and not in response to the enormous public backlash that he suffered as a direct result of those comments. As an Aboriginal affairs minister for seven years, I loved that role. I was born and bred in Kalgoorlie and I grew up with the Wongi people and I have a deep personal affection for Aboriginal people. As our First Nations people, they are the heart and soul of our nation. For people in the twenty-first century to still feel they can demean an Aboriginal person because of his or her race is extraordinary. I remember vividly when I was Aboriginal affairs minister—I am a proud patron of the West Perth Football Club—one of our players was suspended for a week as a direct result of making a racist comment to one of the Aboriginal players. I said to the coach that I would like to speak to the player to explain why it was such a powerful negative influence on the actual Aboriginal person. He did not want to meet with me. I do not know whether it was because he was fearful. The coach said, “No, he’s going to take the penalty of a week off”. I said, “I’m not going to get him off the penalty.” That was not the aim of having a chat to him; I wanted to explain to him why his comments were inappropriate. When he decided not to do that, I decided to talk to all the presidents and CEOs of the various Western Australian Football League clubs. I said, “We have to do something to change the culture within our football fraternity.” We introduced a cultural awareness program throughout the WAFL. I do not think it is continuing now, which is a little unfortunate. I really hope the government reintroduces it because it was good. We did not do it with just the players; we did it right through from the hierarchy—the presidents, the CEOs, the administrators et cetera—to try to develop a cultural awareness and appreciation of Aboriginal people so that players did not avoid making racist comments because they thought they would get a suspension but because they knew it was wrong; that the words they espoused were very wrong.

We are doing that on all fronts in our society—members must be wondering what the correlation is; there is a very deep correlation here. We are dealing with whether the words of another person will somehow demean, diminish or intimidate someone who will make one of the most extraordinarily challenging decisions of her life—that is, to terminate a pregnancy. A woman will make that decision for a raft of reasons, but it must be hauntingly debilitating for a woman in almost every instance to make a decision to terminate her pregnancy.

I have had many letters and emails about this issue. I will not ask why a woman has made a decision to terminate her pregnancy; it is her decision. I will not make a value judgement one way or another. Imagine for one second that a woman has made a decision that will intimately impact on her body, but while she is walking through protesters, she can hear voices putting seeds of doubt into her mind. When she is already feeling extraordinarily vulnerable there are people there making her feel even worse. I do not want to be party to that; I really do not. I can understand why people who have a deep personal or spiritual conviction about abortion feel the way they do. I do not mind if in their own place in their own time they offer counsel or advice. However, when someone has made a very, very conscious decision to terminate her pregnancy, that is her decision and she should not in any shape or form have added anguish to make that decision even more difficult. She should not. When she walks through those doors she must have much anguish going on in her mind. I like to think that we as a society are better than making it worse for her. With that, in line with the rest of the nation, I think we have moved down that path. As I said, I am not making a judgement one way or another on abortion; we have had that debate, but I am making a judgement on the power of the word. Words are extraordinarily powerful. For that reason alone, I think we have to respect the decision of women when they make a decision to terminate, so I will support the legislation.

HON DAN CADDY (North Metropolitan) [3.54 pm]: I will speak for only a couple of minutes. I was not going to get to my feet, but listening to others, especially Hon Peter Collier, has led me to get to my feet—but why? I want to start by saying that I agree with each and every word Hon Peter Collier said and admit that I could not have said it better. Every statement he made—other than his support for the West Perth Football Club—and every example given is exactly why understanding what this Public Health Amendment (Safe Access Zones) Bill will do and how it will improve safety for women is critical. Most importantly, I want to get on the record that I support this bill. I would be happier to see the 150-metre zone extended further but I understand the restrictions within which this bill has been drafted. I also want to reiterate the most important point made by Hon Peter Collier. As a Senate staffer many years ago, I sat through hours of debate on the RU486 bill. It was trying; those opposite—those against the bill is probably a better way of putting it—tried to turn it into a de facto debate on abortion. That was wrong of them; it was a disgusting tactic and I certainly hope it will not be employed in this place. This bill is about the safety of women accessing our health system. That is a right they should have and that is all this bill is about, and I commend the bill to the house.

HON TJORN SIBMA (North Metropolitan) [3.56 pm]: In keeping with this afternoon’s contributions, my contribution will also be brief, but before I make it I want to acknowledge what I think is a heartening fact—that we can have conversations or debates about sensitive issues in a way that is well informed and respectful. I think that has been the tone in which this matter has been discussed today. It probably reflects well on this chamber and the public at large that we can conduct ourselves with a measure of dignity, as I think this chamber did during debate

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on the Voluntary Assisted Dying Bill 2019 in the last Parliament. I bring that up because I think that was obviously a weighty moral issue. With respect to this bill, I make the observation that the moral judgement has already been made. This is not a debate about the rights and wrongs of abortion. That has been settled in a way that I think meets the satisfaction generally of the community, which we are honoured to serve.

We are reluctant to do this in a political sense these days, but I will declare myself: I am a family man. I think my life has been more deeply enriched through marriage and through having children. This may sound strange, but please hear me out. I think to some degree debate on these issues has served to attempt to delegitimise the contributions of men. I think that is a mistake. I think men have a responsibility and we will get a better social outcome the more responsibility we put on men to actually act as men. It is absolutely clear that for a range of personal and medical reasons no woman goes into a termination flippantly. The woman will have made an exacting and oftentimes excruciating judgement to follow through with that procedure. I will defend to my last breath, two things—a person's right to agency and to make medical and health decisions for themselves. For me, that is a red line that I will not cross. The second issue is that in a democracy, there is the capacity to facilitate differences of view with open discussion about issues that are difficult. In my mind, nothing in this bill impedes debate or silences those who have a moral objection to abortion or determination of treatment. This is a practical bill that allows a woman to enact her lawful rights to conduct her life and, to that degree, the bill is to be commended. I will support it.

HON NICK GOIRAN (South Metropolitan) [4.00 pm]: I rise to speak on the Public Health Amendment (Safe Access Zones) Bill 2021. I will begin my contribution to this debate by underscoring an important principle—that is, the principle that every Western Australian should be able to go about their lawful business unimpeded by other Western Australians. It is a sign of respect for one another. People should be able to carry on with their lives without being heckled or abused. However, it is equally worth remembering that just because something is lawful does not mean that it is ethical. Equally, just because something is lawful does not mean that it is beneficial. Indeed, we see this playing out in the corporate sector; there is an increasing societal expectation that businesses will not only comply with the law but also within an ethical framework. Our expectation that businesses be good corporate citizens means that we demand them to fulfil not only their legal duties but also their ethical duties. The current Perth Casino Royal Commission has heard from many experts arguing what Crown should have done and should do more of—by way of prevention and problem gambling support for vulnerable groups, which include those suffering from mental illness and those from culturally and linguistically diverse backgrounds. It is recognised that gambling is legal, yet it is unethical to take advantage of people in difficult circumstances.

Although abortion is legal in Western Australia, as lawmakers, we retain a duty to ensure that the framework in which a decision is made about an unexpected pregnancy is free from duress and undue influence. Informed consent is not a principle that should ever be jettisoned. Equally, policymakers retain a duty to ensure adequate support exists regardless of what choice is being made about a pregnancy. When, many years ago, I first heard about activism occurring outside abortion clinics, to be completely honest and frank with members, I was not enthused about the idea. I felt that there is a time and a place for people to express their views, and I questioned whether standing outside an abortion clinic was the right time and place. I confess I had not done any research. I had done nothing to investigate this issue, and I now accept that I held that view in ignorance. I had never really understood why people would stand outside abortion clinics until I went down to the Marie Stopes Australia clinic in Midland to see firsthand what was happening.

Since then, I have come to understand what takes place outside Western Australian clinics. It is important not to conflate what happens over here with what has been reported to have occurred in other jurisdictions, including in the eastern states. Before I explain what I saw, I firstly want to draw attention to an article from *The Baltic Times* called “Baby statues tell a sad story”. That reports on an art installation that was placed in the town square of Riga, the capital of Latvia, between August and November 2012. The display featured life-size sculptures of 27 babies who all looked like they were sleeping peacefully. Some were on their side, thumbs in their mouth; some had their legs tucked up underneath them. Next to each of these babies was a plaque, each telling a different story written in English, Russian and Latvian. The stories next to each sculpture differed. Some were hard to read, but they told stories like, “My mum really wanted to keep me, but her boyfriend was violent and she was scared of what would happen to her if she did”; or “My mum really wanted to keep me, but her mother told her she would be ruining her life and threatened to kick her out of home”; or “My mum really wanted me but she'd been taking drugs when I was conceived and was worried it would affect me”; or “My mum really wanted me but she was an international student and felt she would be bringing shame on her family if she did”.

These stories stand out for a number of reasons. They provide an insight into the incredibly difficult situations and decisions that some have to make. Indeed, I have spoken to many women who have said they felt that they had no other choice. Another reason this news story stood out to me at the time was because of the number 27. You see, that was the number of babies being aborted in Latvia every day at that time. To put that in the Western Australian context, we know from answers provided in this chamber to parliamentary chambers that in 2020, the last calendar

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year, there were 7 947 babies aborted in Western Australia. That equates to 21 a day, almost one every hour of every day of the year. The stories told on those plaques are precisely why people stand outside abortion clinics. The national data tells us that on average one in three women have experienced physical or sexual violence. If we use those numbers, it is likely that for every two women who arrive at abortion clinics, who have made up their minds and who may well feel confident in their decision, there is another woman who has been coerced or, by virtue of her circumstances, can see no other way out.

As I said earlier, a few years ago, I went down to the Marie Stopes clinic in Midland to see firsthand what was happening there. I need to emphasise that no-one knew that I was there that day. Until I report about it now, no-one would have known I was there. On that day, I observed a group of people peacefully standing not far from the clinic, neither heckling or harassing. They were self-evidently not there with malicious intent. They were there in case any woman sought assistance and support at a potentially conflicting time in their life. I saw people offering help with a demeanour of respect, empathy and humanity. Since that time, I have spoken to some who volunteer and, without exception, they are motivated by compassion. Some have experienced abortions themselves and their lived experience has prompted them to support those in doubt, not wanting them to experience the psychological trauma they experience. The life of both the mother and her baby are precious and, irrespective of convictions, if abortion is truly to be about choice, then, as a matter of fairness, people should be offered an authentic choice.

The a-word, as I have referred to it previously in this chamber over the years, causes deep political polarisation, but I do not believe this should shut down discussion on how to genuinely offer assistance. We now know much more about family and domestic violence. We now know about the insidious nature of coercion, and in this instance we are talking about the life of a human being. As we continue this debate this afternoon, I ask members to acknowledge that if we had capital punishment in Western Australia and people were sitting on death row waiting for state-sanctioned murder cloaked as justice, there would be a significant outcry. I imagine we would all agree that there would be protesters outside the prison, calling for the abolition of the death penalty. For my part, I am on the public record as having grave concerns about capital punishment because of its finality, the risk of mistake and the impossibility of recourse. Situations that result in irreversible and permanent measures, like the taking of a life, need to be considered extremely carefully. An individual's right to life has been described as the most fundamental of human rights. Whether members agree or disagree, I ask them to acknowledge that we have Western Australian people standing outside abortion clinics who feel just as strongly about human life as those protesting capital punishment.

Meanwhile, I am also on the record for noting that the review structures around abortion lack independent oversight. Although governments like to control the public discourse and although abortion is widely recognised as a sensitive matter, it does not justify the ongoing lack of accountable and transparent oversight. Indeed, the storm raging in both domestic and international media discourses around abortion obfuscate an already complex conversation, and this has varied consequences for both mothers and babies. At the end of the day, the onus lies with the government to provide evidence for any reform it seeks. It is what I have previously described in this place as the onus to persuade.

I ask members to consider for a moment the evidence. I start with page 21 of the Department of Health report, *Safe access zones—A proposal for reform in Western Australia*, which my colleague Hon Martin Aldridge touched on earlier. The report states —

WA Police gave DOH details of 75 police attendance tasks and 14 offences recorded at Marie Stopes WA clinics and Nanyara Medical Group between 2014 and 2019. It was noted that some of these tasks may not be related to demonstrator behaviour.

What does that mean? Let us interpret for a moment what the government is saying to us there. I take members to a, if you like, witness statement that I have obtained via Right to Life Western Australia. It is no secret document because it is contained in one of its newsletters from last year and it reports on a vigil they attended. It states —

At one point a person associated with the clinic parked his 4WD near us, straddling the footpath and the street verge, with the exhaust pipe aimed in our direction. It was loud and smelly, and the police were very reluctant to attend. In the end he drove away after about half an hour. Sadly, we later received an email from the Police saying how disappointed they were in how we were behaving, including how we had parked our 4WD on the footpath! In the end I did reply to that email as I am sure it will end up being reported in Parliament, along with the hundreds of baseless complaints made by the clinic.

The statement continues —

On that same day I noticed piles of sugar had been spread around the street verge. The intention was to attract ants to make us uncomfortable.

It continues —

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We talked to many women and others and I know of two women who had a change of heart and decided to keep their child as a result of our presence.

I will just repeat that —

We talked to many women and others and I know of two women who had a change of heart and decided to keep their child as a result of our presence.

I go back to the evidence. I note that on 11 June 2019, my former colleague and former shadow Attorney General Hon Michael Mischin asked a question of the then parliamentary secretary representing the Minister for Health. He asked, in part —

- (3) Can the minister advise whether and what charges have been laid or other action taken by police in respect of such incidents, and the outcome of that action?

The response was —

- (3) I am advised that this question should be directed to the Minister for Police.

Another part of the question was —

- (4) Can the minister advise why such assemblies cannot be adequately controlled by suitable conditions attached to police permits issued under the Public Order in Streets Act 1984?

The response was —

- (4) This option will be considered in the final report.

That was on 11 June 2019. A week later, I attended the Standing Committee on Estimates and Financial Operations hearing and the minister in charge at the time was, indeed, the minister who currently has conduct of the Public Health Amendment (Safe Access Zones) Bill 2021, Hon Stephen Dawson, so he may recall this exchange. At the time, the chair of the estimates committee was the now President. I said —

Madam Chair, my next question to the minister is: what is the cost of administering permits issued under the Public Order in Streets Act 1984 for protester and demonstrator activities?

Hon Stephen Dawson, after some further discussion between us, said that he would have to take that question on notice. It was taken on notice as supplementary information No C8. I then asked —

Have any charges been laid in breach of such permits by sidewalk advocates offering alternative help in areas outside of abortion clinics?

The honourable minister referred the question to one of his advisers, Mr Blanch, who responded —

Yes. We can endeavour to find that information through our systems.

The chair said that that would also be supplementary information No C8. I then asked —

As part of that, which will need to be taken on notice, I would be interested to know what charges have been laid or other action taken by police in respect of such incidents and the outcome of that action?

Hon Stephen Dawson gave the same answer and the chair gave the same supplementary information number, C8.

I take members through this to demonstrate that in June 2019, Hon Michael Mischin asked a question and did not get a response from the government. One week later I went to the estimates committee hearing to find out the same information and was told on three occasions that that information would be taken on notice. The answer on notice that came back was as follows, in part —

The Western Australia Police Force advise:

There is no fee charged to persons or organisation seeking a permit to hold a public meeting and/or conduct a procession under *Section 7 of the Public Order In Streets Act 1984*.

State Traffic estimate the cost for administration is \$72.00 to process and issue a permit.

In the 2018/19 Financial Year to Date 150 permits have been issued totalling \$10,800.00.

So, there was no response to the question of how many people had been charged with regard to these protests that we are told are out of control and need this remedy. The following year I pursued this matter again in the estimates committee and asked some questions prior to the hearing, having not received a response, despite the fact that I was told on three occasions the previous year that it would be taken on notice. I asked —

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(a) What was the cost for administering permits for protestor and demonstrator activities in 2019/20 and what is the budgeted cost for 2020/21;

I also asked —

(d) Have any charges been laid in breach of permits by persons in areas outside of abortion clinics;

This time I got an answer. This is from the 2020–21 budget estimates, the most recent ones. Via the minister, the WA Police Force advised the committee —

There have been no charges laid for offences against section 9 of the *Public Order in Streets Act 1984*.

That is the evidence on the public record about what is happening outside abortion clinics. I reiterate the point that it remains for the government to persuade members what is actually happening outside abortion clinics. Despite the fact that I have pursued this matter for a number of years, the latest evidence to the committee was that no charges had been laid.

That seems to be consistent with what I witnessed on the day that I visited. I want to re-emphasise what I said earlier: I firmly hold the view that people should be able to go about their lawful business unimpeded. But equally, just because something is legal does not always mean it is ethical or beneficial. As a society, we have a better understanding of family and domestic violence and the nature of coercion and control. It is in this context that I think it is worth us noting that 500 of the submissions received in response to the Department of Health's discussion paper outlined how some women are forced, manipulated and coerced into the decision to have an abortion, and approximately 250 of those submissions suggested better holistic counselling and support for patients be made available.

In light of this evidence, why would we prohibit volunteers from standing outside an abortion clinic, without intimidation and without judgement, and saying, "I'm here to help if you want me to"? If this bill prohibits intelligent, decent people from being able to stand there and say, "It is your choice but I am able to provide you support and I will journey this with you, if you want", then we can stop the pretence that this is a pro-choice bill. It is plainly neither pro-choice nor pro-life. I cannot support a system that leaves someone, with an unexpected pregnancy, at the mercy of grey areas—coercion and misinformation—and at the same time allows others who care—to be subject to excessive penalties for merely offering and providing compassion and support. In my view, we should be encouraging a culture that is open to help and open to life, not suppressing it. The existing legal regulatory regime provides the right balance. I think it is wrong for the government to push through our Parliament, under a charade of choice, laws that serve only the narrow interests of service providers.

This is my fourth term in this Parliament. I cast my mind back to my second term. I recall sitting in this chamber listening to debate about the philosophical underpinnings of why people are passionate about protesting. As I have already said, what I observed was not protesting at all; it was people offering help and support to those who want it. I am not going to disclose the names of the members, but suffice to say there were members, who are now in government, who lamented the Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015, and particularly the reversal of the onus of proof. One Labor member said —

Reversing the normal burden of proof and requiring the defendant in a criminal case to prove his innocence is generally disapproved of and not supported by lawmakers in democratic societies. This practice has been condemned in a range of reports by a number of investigating bodies. That includes the Senate Standing Committee on Constitutional and Legal Affairs in a 1982 report. The Senate Standing Committee for the Scrutiny of Bills of the commonwealth Parliament has made clear in a number of reports its view that the reversal of the onus of proof should be limited in its application. The review of commonwealth criminal law 1991 part 2 also made very clear its opposition to the reversal of the onus of proof, except in very limited circumstances. The Western Australian Standing Committee on Legislation, of which I have been a member for a short period of time, has also acknowledged that it is opposed to provisions that reverse the onus of proof.

...

The commonwealth publication *A Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers* states very clearly—

Placing a legal burden of proof on a defendant should be kept to a minimum.

In other words, it should be avoided.

Now look what we have here: the bill before us will reverse the burden of proof. For those members who were there at that time, that hypocrisy is absolutely mind-boggling.

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A different Labor member during that debate quoted from a book titled *Speech matters: Getting free speech right*. The quote was —

The right to protest and demonstrate, also known as the right to peaceful assembly, is widely considered fundamental to democratic practice. Protesting is in many ways the epitome of collective, popular political speech in a democracy, and it is precisely the kind of political speech that ought to be protected. This is because peaceful protest is speech that directly reflects the two interrelated reasons for protecting freedom of speech. Protest is a kind of speech that is essential to democratic legitimacy, because it enables everyday citizens to critique openly and debate essential questions of governance, and therefore to practise democracy itself.

Past debates have taught me that no-one will dispassionately explain how this is any different. I also note that only 10 of the 4 184 submissions received by the Department of Health said that the current legislative regime is inadequate and does not protect the wellbeing and privacy of individuals from the behaviour of demonstrators. That is 0.2 per cent of respondents.

In concluding, if time permits me before we interrupt for the taking of questions without notice, I will read from an article written by Edwina Carr Barraclough titled “I Was Forced Into An Abortion By A NRL Player And I Regret It”. The article from 28 August 2019 states —

“He wore me down, and it felt like I had no choice,” she said. “I felt so disempowered that there was no other option for me left but to have this abortion he wanted. I was made to feel as though I was a drama queen because I cared deeply about the baby, that I felt connected to it.”

The article went on to say —

Her pregnancy was viewed by the majority of people around her as a problem—not once did anyone discuss a narrative where it was acceptable for her to have the baby.

It goes on —

... a recent report published in the Australia New Zealand Journal of Public Health found around one in six Australian women have had an abortion by their mid-30s (with other estimates predicting that number could be closer to one in four)—a telling reminder that all women seeking a termination should have their emotional, as well as physical, health supported.

It’s something Ms Taki believes is crucial.

“I’m definitely not anti-abortion, I’m just here wanting women to truly know what their choices are and make an informed choice,” she said.

“Some women want to keep their baby but they don’t know what to do and that’s the thing I want to reassure them on—there are ways to get support.”

Heartened by the many women who’ve contacted her to share their own similar story, Ms Taki is now a vocal advocate, raising awareness around abortion coercion through speaking at events.

As I conclude, I read from this testimony from a Western Australian. It is brief; it reads as follows —

And now I want to share with you just a bit about an early experience of mine. In 1994, when I was 20 years old I lost my daughter Angel Lee at 22 weeks’ gestation due to immense stress caused by domestic violence and alcoholism on the part of her father. I gave birth to Angel who died moments later and couldn’t be resuscitated.

Even when I was in labour, I thought I was going to give birth to something that was half blob, half human. Yet, she was fully developed, had the features of both of her parents and was just the length of my forearm. After spending this time with her, I understood then, the full humanity of an unborn child in the womb.

I also understand what it’s like to go home with an empty womb.

Fast forward many years later and I am standing in front of an abortion clinic, involved in prayer vigils, and I meet a pregnant mum going into the clinic for an abortion.

We had so much in common! It was incredible and I felt like I was speaking to a younger version of myself.

Extract from *Hansard*

[COUNCIL — Tuesday, 10 August 2021]

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President; Hon Martin Aldridge; Hon Samantha Rowe; Hon Lorna Harper; Hon Sophia Moermond; Hon Donna Faragher; Hon Colin De Grussa; Hon Brad Pettitt; Hon Wilson Tucker; Hon Neil Thomson; Hon Peter Collier; Hon Dan Caddy; Hon Tjorn Sibma; Hon Nick Goiran

I was able to share my story with her and explain the ways in which we could give her free help and support. She began to cry and then laughed and gave me a huge hug. I asked, ‘Do you want to get out of here’, to which she replied, ‘Yep, let’s do it.’ So I drove her home.

We exchanged contact details and she took up the free help offered to her from a local Pregnancy Resource Centre throughout her pregnancy and beyond.

I was given the privilege of going to the hospital and holding her baby. I’m not sure if I can adequately describe this feeling. To know how close this child was to death and now to be holding and kissing this baby. It was like waiting for my own child to be born! This child will be treasured and loved forever!

May I ask you —

I conclude here, members —

Who is going to offer sanctuary for these mothers and their babies if we don’t?

That is why people stand at the front of abortion clinics.

Debate interrupted, pursuant to standing orders.

[Continued on page 2509.]